DOCUMENT RESUME

ED 450 323	CG 030 769
AUTHOR	Austin, James; Johnson, Kelly Dedel; Gregoriou, Maria
TITLE	Juveniles in Adult Prisons and Jails: A National Assessment. Monograph.
INSTITUTION	George Washington Univ., Washington, DC. Inst. on Crime, Justice and Corrections.; National Council on Crime and Delinquency, New York, NY.
SPONS AGENCY	Department of Justice, Washington, DC. Bureau of Justice Assistance.
REPORT NO	NCJ-182503
PUB DATE	2000-10-00
NOTE	136p.
CONTRACT	97-DD-BX-0026
AVAILABLE FROM	Bureau of Justice Assistance Clearinghouse, P.O. Box 6000, Rockville, MD 20849-6000. Tel: 800-688-4252 (Toll Free).
PUB TYPE	Reports - Evaluative (142)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Adolescents; *Correctional Institutions; *Correctional Rehabilitation; *Educational Needs; *Juvenile Justice; Special Needs Students; Student Needs
IDENTIFIERS	*Incarcerated Youth

ABSTRACT

The number of youth under 18 confined to adult prisons has more than doubled in the past decade. A nationwide study of juveniles in adult correctional facilities was undertaken to help policymakers form an effective response to this situation. The study determined the extent of juvenile confinement in facilities around the country. It also assessed whether juveniles in adult facilities were receiving an education, were being treated for substance abuse as needed, and were given the skills to help them succeed when released. Following an introductory summary, Chapter 1 provides background information on the study. Chapter 2 discusses the legal issues relating to conditions of confinement for youth. Chapter 3 explains some characteristics of the youth in adult correctional facilities. Chapter 4 provides examples of five Department of Corrections around the country. Chapter 5 discusses alternative strategies and the technical assistance provided youth in prison. Incarcerated youth are required to receive regular, special, and vocational education services in accordance with laws and regulations for public schools. Proper identification of youth with special needs, exposure to special education curricula, and teachers certified as special education instructors should be available to these juveniles. (Contains 1 appendix, 2 figures, 12 tables, and 22 references.) (JDM)

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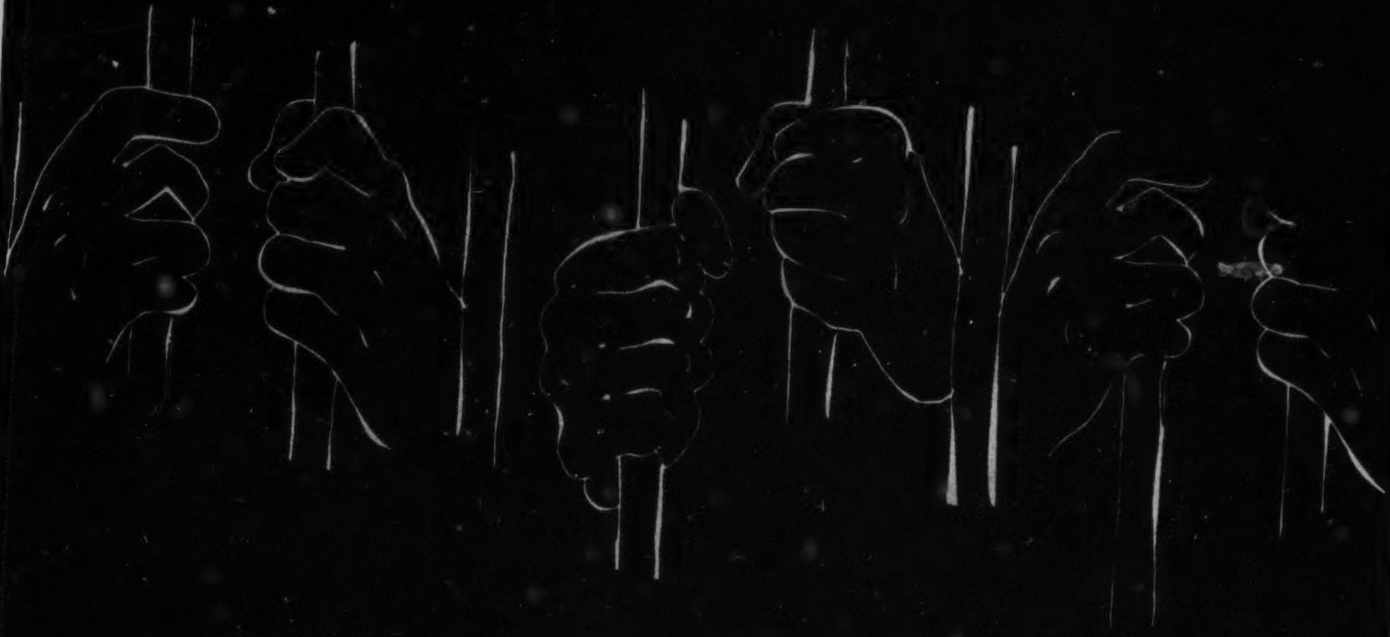

Juveniles in Adult Prisons and Jails

A National Assessment

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This document was prepared by the Institute on Crime, Justice and Corrections and the National Council on Crime and Delinquency, under grant number 97-DD-BX-0026, awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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Juveniles in Adult Prisons and Jails

A National Assessment

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October 2000 Monograph NCJ 182503

Foreword

Since 1992, 45 states have passed or amended legislation making it easier to prosecute juveniles as adults. The result is that the number of youth under 18 confined in adult prisons has more than doubled in the past decade. This phenomenon is challenging the belief, enshrined in our justice system a century ago, that children and young adolescents should be adjudicated and confined in a separate system focused on their rehabilitation.

In 1997, the Bureau of Justice Assistance funded a nationwide study of juveniles in adult correctional facilities to help policymakers and criminal justice practitioners form an effective response to this critical issue. *Juveniles in Adult Prisons and Jails: A National Assessment* is the product of that study. This report begins to answer important questions about this vulnerable population: What is the extent of juvenile confinement in federal, state, and local facilities? What types of facilities are used to house juvenile offenders? What happens to juveniles in the adult system? Are juveniles in adult facilities educated, treated for substance abuse, and taught skills that will help them find a job after their incarceration? Are prisons and jails protecting young offenders from physical, sexual, and psychological abuse? What are the alternative strategies for housing offenders sentenced to long terms in adult facilities?

As the findings of this study show, there are important steps we can take now to improve the well-being of juvenile offenders in adult facilities. We can develop specialized vocational, sex offender, and substance abuse programs tailored to the developmental needs of youth. We can ensure that staff in adult facilities take seriously their federal mandate to provide regular and special education services to youth in their care. And we can do much more to ensure the safety and care of young offenders who interact with adult offenders.

It is our hope that this work engages public officials, administrators, judges, prosecutors, public defenders, scholars, and other criminal justice practitioners in a frank and meaningful discussion about the incarceration of juveniles with adults.

Nancy E. Gist

Nancy E. Gist
Director
Bureau of Justice Assistance

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Executive Summary

Historical Context of the Study

The development of a distinct justice system tailored to recognize the mitigating factors associated with juvenile crime is recognized as one of the most progressive developments in the evolution of criminal justice in the United States. Until the 20th century, no formal differentiation had been made between society's response to crimes committed by juveniles and its response to crimes committed by adults. Beginning in Illinois in 1899, juvenile court systems were instituted throughout the United States to place greater emphasis on the welfare and rehabilitation of youth in the justice system. Specialized detention centers, training schools, and youth centers were developed to confine and treat delinquent youth apart from adult offenders. These facilities were to provide a structured, rehabilitative environment in which the educational, psychological, and vocational needs of youthful offenders could be addressed. Although system crowding and funding shortfalls have frequently compromised achievement of these objectives, the goal of the juvenile court system has remained focused on protecting the welfare of youthful offenders.

This concept of a distinct justice system for juveniles focused upon treatment has come under attack in recent years. Beginning in the late 1980s, communities across the nation began to experience dramatically increased rates of juvenile crime. The arrest rate for violent crimes of both males and females began to increase in 1987 and continued to escalate until the mid-1990s. Although this trend appears to have reversed, rates of serious crimes committed by juveniles remain well above historical levels.

The increasing incidence and severity of crimes committed by juveniles led many to question the efficacy of the juvenile court system and to call for a harsher response to juvenile crime. Juvenile delinquency that results in serious offenses has come to be viewed as more a criminal problem than a behavioral problem, resulting in a shift in public response to the management of juvenile offenders. Researchers have noted this shift in trends toward more arrests, longer periods of incarceration, fewer opportunities for rehabilitation, and, most significantly, increases in the transfer of juveniles to the adult criminal justice system.

Juveniles are increasingly placed in adult correctional facilities. Concerned that the juvenile justice system may be ill equipped to handle youth charged with serious crimes and that the juvenile court may be too lenient in its punishment and control of such youth, many states have begun amending their criminal codes so that youth charged with certain crimes can be tried in adult courts and sentenced as adults.

Study Objectives

This report, *Juveniles in Adult Prisons and Jails: A National Assessment*, provides data that are critical for an effective response to the growing number of juveniles being housed in adult jails and prisons. This report documents the number of youth in adult facilities as of 1998, their demographic and offense characteristics, the legal and administrative processes by which such commitments are permitted, the issues faced by adult correctional systems in managing juveniles, and the conditions of juveniles confined in adult facilities.

Three major phases of work were associated with this report.

- An analysis of recent legislative trends that statutorily require juveniles to be tried as adults and a survey of existing statutes and policies governing the transfer of juveniles to adult court were prepared.
- A detailed census of juveniles in adult correctional facilities was conducted using federal statistical reporting programs and an extensive survey of federal, state, and local justice agencies.
- Selected prisons and jails were visited to assess the accuracy of the survey results and to examine the conditions of confinement and access to programs.

Major Findings

This study represents the most thorough examination to date of the issues presented by youth who are incarcerated in adult facilities. The findings include the following:

- Approximately 107,000 youth (younger than 18) are incarcerated on any given day.
- Of these, approximately 14,500 are housed in adult facilities. The largest proportion, approximately 9,100 youth, are housed in local jails, and some 5,400 youth are housed in adult prisons.
- Of the 50 states and the District of Columbia, 44 house juveniles (age 17 and younger) in adult jails and prisons.
- In recent years, the number of youth in jails has escalated, while the number in prisons has stabilized or declined.
- The actual number of youth who experience incarceration in an adult prison is much higher than the number shown by a 1-day count, with an estimated 13,876 juvenile state prison admissions in 1997. There are no current estimates of the number of youth admitted to jails each year.
- In terms of their legal status while incarcerated, 21 percent were held as adjudicated juvenile offenders or pretrial detainees, and 75 percent were sentenced as adults.

- ☐ Of the 44 state prison systems that house juveniles as adults, 18 states maintain designated youthful offender housing units.
- ☐ In comparison with the adult prison population, a higher proportion of youth were black (55 percent of youthful inmates versus 48 percent of adult inmates) and were convicted of a crime against persons (57 percent of youth versus 44 percent of adult inmates).
- ☐ The vast majority of these youth are age 17 (79 percent) or age 16 (18 percent).
- ☐ Approximately 51 percent of the youthful offender population were housed in dormitory settings, 30 percent in single cells and 19 percent in double cells.
- ☐ Health, education, and counseling programs were fairly standard, with little evidence of efforts to customize programs for youthful offenders. A few states operate programs specifically for the most difficult to manage juveniles.

Recommendations

Among the policy recommendations from this report, there are several areas in which the Bureau of Justice Assistance (BJA) could address this issue through the provision of technical assistance programs that target the staff and administrators who manage juveniles in adult correctional settings. Among the key issues are the following:

- ☐ Ensuring that classification instruments are valid for this subset of the adult correctional population and that risk and needs instruments reflect the maturation issues and special needs of the juvenile population.
- ☐ Enhancing the expertise of security staff in managing a younger, more energetic, and more impulsive youthful offender and increasing their awareness of the potential for victimization of youth in adult facilities.
- ☐ Developing specialized programs responsive to the developmental needs of youthful offenders. These include educational and vocational programs, sex offender and violent offender programs, and substance abuse programs that take into account the roles these issues play in adolescent development.
- ☐ Ensuring that staff in facilities are aware of and adhere to federally mandated obligations to provide regular and special education services to youth in their care. Such a program could be developed in partnership with the U.S. Department of Education.
- ☐ Expanding the array of nonviolent incident management techniques that are effective in deescalating volatile incidents involving youthful offenders.

☐ Developing appropriate and effective incentives for program participation.

Given the relative newness of this issue and the dearth of knowledge surrounding the conditions, impact, and consequences of juvenile incarceration in adult facilities, additional research is required in the following areas:

☐ Full explication of the needs profiles of youthful offenders requiring educational services, substance abuse treatment, mental health services, and medical services. These profiles could assist in the creation of developmentally appropriate programs and industry standards for adult facilities housing juveniles.

☐ Assessment of different housing strategies such as the degree of separation from adult offenders, the special management required by dormitory settings, and the cost-effectiveness of these options given the small size of the youthful offender population.

☐ Assessment of the impact of youthful offenders on adult prison populations and the development of strategies for minimizing the "contagiousness" of the volatility and impulsiveness that are common among youthful offenders.

Introduction

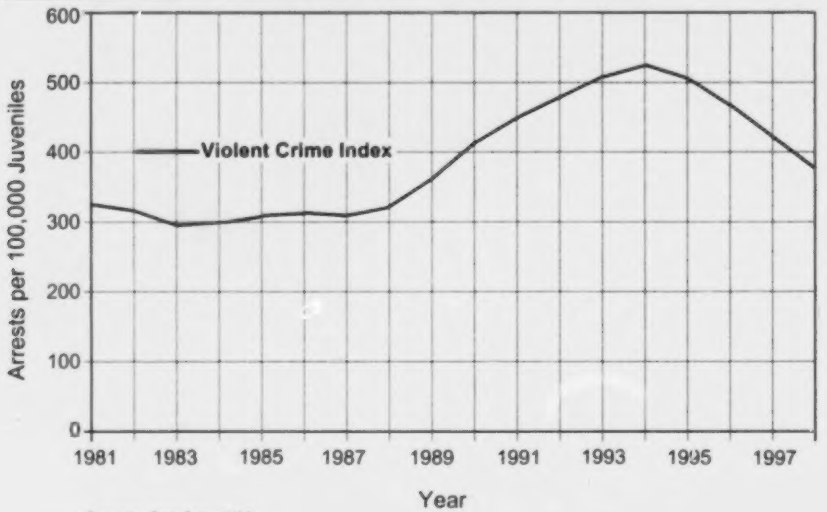
Background to the Study

The development of a distinct justice system tailored to recognize the mitigating factors associated with juvenile crime is recognized as one of the most progressive developments in the evolution of criminal justice in the United States. Prior to the 20th century, no formal differentiation had been made between society's response to crimes committed by juveniles and its response to crimes committed by adults. Beginning in Illinois in 1899, juvenile court systems were instituted throughout the United States to place greater emphasis on the welfare and rehabilitation of youth in the justice system. Specialized detention centers, training schools, and youth centers were developed to confine and treat delinquent youth apart from adult offenders. These facilities were to provide a rehabilitative environment for addressing the educational, psychological, and vocational needs of youthful offenders. Although system crowding and funding shortfalls frequently compromise achievement of these objectives, the goal of the juvenile court system remains focused on protecting the welfare of youthful offenders.

This concept of a distinct justice system for juveniles focused on treatment has come under attack in recent years. Beginning in the 1980s, communities across the nation began to experience dramatically increased rates of juvenile crime. Alarmingly, serious violent crimes experienced the most rapid growth. From 1984 through 1994, the arrest rate of juveniles for violent offenses increased by 78 percent. Arrests for murder and aggravated assault increased by 45 percent and 37 percent, respectively, from 1989 through 1993. However, since then juvenile arrest rates have declined. Between 1994 and 1998, violent offenses declined by 19 percent, although they are still 15 percent higher than the 1989 level (Snyder, 1999). As shown in figure 1, this trend appears to have peaked in 1994, with the 1998 arrest rates for violent crime index offenses 30 percent below the 1994 level, although the rates of arrests for serious crime by juveniles remain well above historical levels (Snyder, 1997).

The increasing incidence and severity of juvenile crime have led many to question the efficacy of the juvenile court system and to call for a harsher response to juvenile crime. Juvenile delinquency that results in more serious offenses has come to be viewed as more a criminal problem than a behavioral problem, resulting in a substantial shift in public response to the management, rather than treatment, of juvenile offenders. This shift is evident in increasing arrest rates, longer periods of incarceration, fewer opportunities for rehabilitation, and, most significantly, increases in the number of juveniles transferred to the adult criminal justice system (Sickmund et al., 1997). This last development is apparent in surveys of legislative trends.

Figure 1 Juvenile Arrest Rates for Violent Crime Index Offenses, Ages 10–17, 1981–1998



Source: Snyder, 1998.

Concerned that the juvenile justice system may be ill equipped to manage youth charged with serious crimes and that the juvenile court may be too lenient in its punishment and control of such youth, many states amended their criminal codes so that youth charged with certain crimes may be tried and sentenced as adults (National Institute of Justice, 1997). Between 1992 and 1996, 43 of the 50 state legislatures and the District of Columbia made substantive changes to their laws targeting juveniles who commit violent or serious crimes. All but 10 states adopted or modified laws making the prosecution of juveniles in criminal court easier. Nearly half (24) of the states added crimes to the list of excluded offenses, and 36 states and the District of Columbia excluded certain categories of juveniles from juvenile court jurisdiction. The list of offenses considered serious enough for transfer of youth as young as age 14 includes murder, aggravated assault, armed robbery, and rape, as well as less serious and violent offenses such as aggravated stalking, lewd and lascivious assault or other acts in the presence of a child, violation of drug laws near a school or park, sodomy, and oral copulation. Since 1992, 13 states and the District of Columbia have added or modified statutes that provide for a mandatory minimum period of incarceration for juveniles held as adjudicated delinquents for certain serious and violent crimes.

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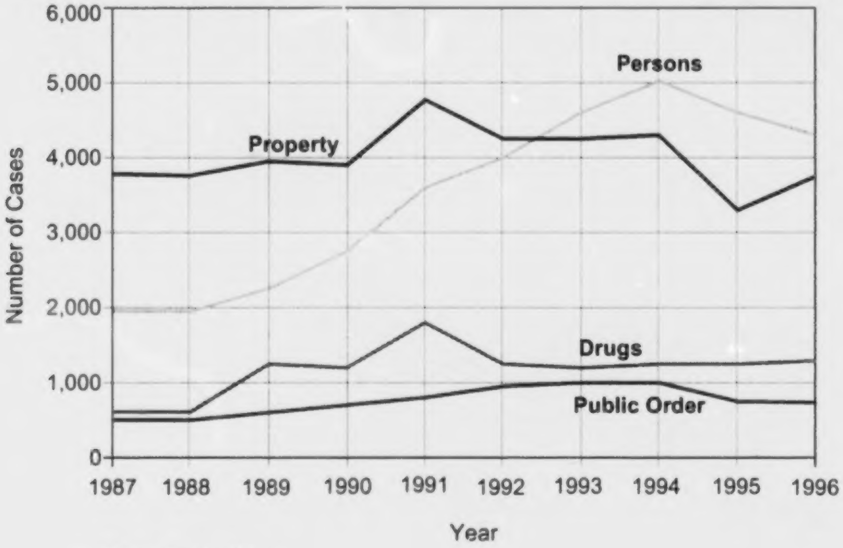
One legal method to try a youth as an adult is to lower the age of adult court jurisdiction. For example, seven states (Georgia, Illinois, Louisiana, Massachusetts, Michigan, South Carolina, and Texas) have set the age of jurisdiction at 16, whereas three states (Connecticut, New York, and North Carolina) have lowered the age to 15 years. Missouri lowered the age for transfer to criminal court to 12 for any felony. In all but two states (Nebraska and New York), a juvenile court judge can waive jurisdiction over a case and transfer youth to the adult court for certain crimes and at certain age limits.

Although the legal basis for waiver varies from state to state, the trend across the country is to expand the use of waivers. This is being accomplished by lowering the age of adult jurisdiction, by adding to the list of applicable crimes, and by adopting more procedures by which youth can be transferred to adult court (e.g., either through the discretion of the prosecutor or through legislative mandate). Currently, waiver provisions are often applied to nonviolent offenders and, in some states, running away from a juvenile institution is grounds for prosecution in adult courts. Although crimes against persons are now the most frequent offenses related to the use of waiver, the majority of offenders are charged with property, drug, and public order offenses (see figure 2).

Figure 2 **Delinquency Cases Judicially Waived to Criminal Court, 1987–1996**



Source: Stahl, 1999.

Related to the issue of waivers is the disproportionate confinement of minority youth. A number of researchers have noted the overrepresentation of minority youth at every stage of processing in the justice system (Hsia and Hamparian, 1998). Evidence that waiver decisions have been made in a racially disparate manner may support the contention that minority youth are being unfairly targeted for incarceration in adult facilities.

Historical Trends in the Number of Youth Confined in Adult Facilities

Levels of confinement can be measured by the number of offenders admitted to a facility or system in a given year or by a 1-day "snapshot" of the number of offenders incarcerated on any given day. Using the most recent national data and information provided by this study, 14,500 juveniles were estimated to be housed in adult correctional facilities on any given day in 1997. Another 93,000 youth were in public and private juvenile facilities, for a total of approximately 107,000 youth incarcerated on any given day (table 1). Table 2 shows that the number of juveniles in adult jails has increased markedly over the past two decades, from 1,736 in 1983 to 8,090 in 1998. Although the number of juveniles in adult jails has increased, the number of youth in adult prisons appears to have declined. For example, in 1995 the Bureau of Justice Statistics (BJS) reported 5,027 juveniles in state prisons as compared with the 4,775 indicated in this report for 1997.

Table 1 Number of Juveniles Incarcerated, 1997

Type of Facility	Number	Percentage*
Total	107,169	100%
Juvenile Facility	92,664†	86
Jail	9,105	8
Prison	5,400	5

*Discrepancy in total is due to rounding.
†This number reflects juveniles in public or private detention and correctional facilities, including status offenders, and is limited to persons under age 18.
Source: Bureau of Justice Statistics, 1999, pages 479 and 481.

Table 2 Juveniles in Adult Jails, 1983–1998

Year	Total Adult Inmates	All Males	All Females	Juveniles
1983	221,815	206,163	15,652	1,736
1984	233,018	216,275	16,743	1,482
1985	254,986	235,909	19,077	1,629
1986	272,736	251,235	21,501	1,708
1987	294,092	270,172	23,920	1,781
1988	341,893	311,594	30,299	1,676
1989	393,248	356,050	37,198	2,250
1990	403,019	365,821	37,198	2,301
1991	424,129	384,628	39,501	2,350
1992	441,780	401,106	40,674	2,804
1993	455,600	411,500	44,100	4,300
1994	479,800	431,300	48,500	6,700
1995	499,300	448,000	51,300	7,800
1996	510,400	454,700	55,700	8,100
1997	557,974	498,678	59,296	9,105
1998	584,372	520,581	63,791	8,090
% Change, 1983–1998	163%	153%	308%	366%

Source: Bureau of Justice Statistics, 1999, page 481.

Aside from aggregate data on the number of juveniles in adult facilities, little has been known about their individual characteristics. BJS, the primary source of these data, recently issued a study of persons under age 18 who are held in state prisons (Bureau of Justice Statistics, 2000). Table 3 compares the attributes of the state prison admission population under age 18 in 1985 and 1997, as presented in the study. Major highlights are detailed below.

- The number of offenders under age 18 admitted to state prison more than doubled from 3,400 in 1985 to 7,400 in 1997. However, persons under age 18 have consistently represented about 2 percent of new admissions in each of the 13 years.

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Table 3 Attributes of Juveniles Admitted to State Prisons, 1985 and 1997*

Attribute	1985 Prison Admissions	1997 Prison Admissions
Total Admissions	**3,400**	**7,400**
Offense Type		
Violent	52%	61%
Property	42	22
Drug	2	11
Public Order	4	5
Race/Ethnicity		
White	32%	25%
Black	53	58
Hispanic	14	15
Other	1	2
Gender		
Male	97%	97%
Female	3	3
Age at Admission		
17	80%	74%
16	18	21
15	2	4
14 and Younger	0	1
Average Sentence		
Maximum	86 months	82 months
Minimum	35 months	44 months

*Discrepancies in totals are due to rounding.
Source: Bureau of Justice Statistics, 2000.

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- In 1997, 61 percent of these admissions were for violent crimes, which represents a substantial increase from the 52 percent admitted for violent crimes in 1985.
- Within the violent offense category, the most frequent type of new court commitments for violent crimes was robbery (32 percent), followed by aggravated assault (14 percent), murder (7 percent) , and sexual assault (4 percent).
- The proportion of new admission for property offenses decreased from 42 percent in 1985 to 22 percent in 1997. This decline is primarily accounted for by a 15-percent decrease in admitted burglary offenders.
- Drug offense admissions increased from 2 percent in 1985 to 11 percent in 1997.
- Public order offenders remained fairly stable between 1985 and 1997.
- Prison admissions for youthful offenders who are black or Hispanic increased from 67 percent in 1985 to 73 percent in 1997.
- Although the vast majority of prison admissions for youthful offenders are age 17 at admission, admissions in the 13–16 age group increased from 20 percent in 1985 to 26 percent in 1997. Beginning in 1995, offenders age 14 and younger were being sentenced to prison.
- In 1997, the average maximum sentence for persons under age 18 was 6.8 years, 4 months less than in 1985. Paradoxically, the average minimum time to be served was 3.6 years, an increase of 9 months from 1985, which is probably due to reductions in good-time credits and/or truth-in-sentencing laws. This trend in sentence length for admissions under age 18 admissions was observed for all offense types with the exception of the mean maximum sentence length for drug offenses, which increased by 2 months.
- On December 31, 1997, fewer than 1 percent of state prison inmates were under age 18, a proportion that has remained stable since the mid-1980s.

The BJS report also notes that state prison admissions for the group under age 18 grew faster than arrests, with the likelihood of incarceration relative to arrest increasing in almost every category with the exception of most property offenses.

Conditions of Confinement

Numerous studies have examined the conditions of confinement and issues faced by juveniles in adult facilities. Research has shown that juveniles in adult facilities are at much greater risk of harm than youth housed in juvenile facilities. The suicide rate for juveniles held in jails is five times the rate in the general youth population and eight times the rate for adolescents in juvenile detention facilities (Community Research Center, 1980).

Forst and colleagues (1989) reported that, although youth in adult and juvenile facilities were equally likely to be victims of property crime while incarcerated, juveniles in adult facilities were more likely to be violently victimized. In 1988, 47 percent of juveniles in prisons (compared with 37 percent of youth in juvenile facilities) suffered violent victimization, including violence at the hands of staff. Sexual assault was five times more likely in prison, beatings by staff nearly twice as likely, and attacks with weapons were almost 50 percent more common in adult facilities. Clearly, safely housing juveniles in adult facilities and protecting younger inmates from predatory, older inmates are important issues for correctional administrators.

Policy Issues Addressed by the Study

The growing number of juveniles admitted to adult facilities raises a number of important questions for correctional administrators and policymakers. This research provides key information for decisionmakers by documenting the number and profiles of youth in adult facilities, the legal and administrative processes by which they are waived to the adult court system, the issues faced by adult correctional systems handling juveniles, and those faced by juveniles who are confined in adult facilities. The specific questions to be answered by this project are as follows:

☐ **What is the extent of confinement of juveniles in federal, state and local facilities? What is the legal basis for allowing juveniles convicted as adults to be committed directly to the adult system?**

An updated national census is presented of those states permitting juveniles to be charged and convicted as adults, housed during pretrial status in adult pretrial facilities (jails), and sentenced to adult facilities (prisons or jails). Moreover, a summary of recent legislation adopted by the states is provided.

☐ **What types of adult facilities are used to house juveniles and what is the legal basis for such commitments?**

Juveniles are confined in a wide variety of adult facilities. Juveniles, if charged as adults (and for other reasons), can be housed in adult facilities awaiting the court's disposition. As shown earlier, a far greater number of juveniles are admitted to jails than to state and federal prison facilities. Youth may be placed in jails because they are being prosecuted as adults or because the jurisdiction does not have a juvenile facility for those who require secure confinement while awaiting the court's final disposition of the charges. Distinctions in the legal basis for placing juveniles in adult correctional facilities are discussed.

☐ **What happens to juveniles in the adult system? Are they placed in separate areas or allowed to be housed with adults?**

Sight and sound separation of adults and juveniles at all stages of judicial processing is mandated by Congress for all states under the Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974, as amended. This report examines to what degree and under what circumstances this mandate is adhered to when minors are sentenced as adults. Further, the ability of mixed-age facilities to provide required programs and services to minors while maintaining separation from adults is discussed.

☐ **Do juveniles in adult facilities receive unique treatment, education, job skills training, and other services?**

Despite being placed in adult facilities, minors retain special civil rights to education, vocational training, and other services that may require additional or special programs. These rights have consequences in staffing and access to appropriate programs that are responsive to the developmental, physical, social, psychological/emotional, educational, and family needs that are unique to adolescents.

☐ **Does the presence of minors in a mixed-age facility pose unique management problems with respect to disciplinary incidents?**

Practitioners have often asserted that younger offenders are more difficult to manage than older inmates. In some jurisdictions, attempts have been made to house youth with older inmates who will provide a calming influence on juveniles, especially those with long sentences. However, research has shown that juveniles in adult populations are more likely to commit suicide and to be victims of violence and sexual assaults. Transferred juveniles create new problems for the adult corrections system, including development of treatment and reintegrative services and protection from predatory inmates. The way in which these disciplinary issues are managed is a key discussion.

☐ **What are the alternative strategies for housing juvenile offenders sentenced to long terms in adult facilities?**

Some juveniles convicted of violent crimes are now facing extremely long, life, or death sentences. This bleak future may create additional disciplinary and mental health issues that must be managed by correctional administrators and staff.

Overview of the Report

Chapter 2 provides an assessment of the laws and administrative policies that provide the legal basis for placing juveniles in adult prisons and jails. Also presented is an analysis of the circumstances that constitute the breakpoint between adult and juvenile proceedings. In certain circumstances (e.g., age, offense, criminal history), a youth younger than the statutory age of court jurisdiction can be handled in the adult system. Other prescriptions govern the conditions under which a youth can be held in pretrial and/or sentenced status and the types of institutions in which a youth may be held. The range of allowable sentences to adult facilities is also discussed.

Chapter 3 presents the results of the national survey of the numbers and attributes of juveniles housed in adult jails and prisons. Individuals age 17 and younger were defined as juveniles. Using this definition, the chapter provides an assessment of the prevalence of juvenile incarceration in adult facilities and profiles the demographic and offense characteristics of these juveniles.

Chapter 4 describes the facilities surveyed and the types of programs available to juveniles in these institutions. Of particular interest are the degree to which juveniles are segregated from adult offenders and the types of programs available at these institutions. This chapter also summarizes the management issues created by the presence of juvenile offenders in adult institutions and how correctional administrators attempt to respond to those issues. The chapter provides a discussion of the day-to-day issues associated with housing juvenile offenders with adults.

Chapter 5 identifies issues for further research and topical areas of technical assistance that the Bureau of Justice Assistance (BJA) should consider offering to assist state and local governments to assist them in managing juveniles in adult facilities.

Legal Issues Relating to Conditions of Confinement for Youth in Adult Facilities

Introduction

Youth detained in adult facilities under criminal court jurisdiction have the right to humane treatment, mental health and medical care, education, due process protection, and access to their families and the courts. These rights extend to children who are confined in juvenile detention centers, training schools, adult jails and prisons, and other secure institutions. These rights emanate from the U.S. Constitution and federal laws, including the Juvenile Justice and Delinquency Prevention Act; from state constitutions and laws; and from court interpretations of these laws. This chapter provides a summary of the major legal cases that guide the care of juveniles in correctional facilities. Full citations of the cases mentioned in text can be found at the end of the chapter. (The chapter was adapted for this report from Chapter 2 of *Representing the Child Client*, "Legal Rights of the Child," by Mark Soler.)

Conditions for convicted adult prisoners, and juveniles convicted under adult court jurisdiction only violate the U.S. Constitution where they amount to "cruel and unusual punishment" under the eighth amendment (see *Rhodes* v. *Chapman*). Adult facilities must provide for basic needs, including adequate food, clothing, shelter, medical care, and protection from violence. To determine whether a particular condition or practice is cruel or unusual in an adult institution, courts evaluate whether the condition poses a substantial risk of serious harm and whether officials acted with "deliberate indifference" to the rights of the inmate (see *Wilson* v. *Seiter* and *Farmer* v. *Brennan*).

Youth may be entitled to additional protection under state laws or regulations. For example, most states have laws giving children a right to treatment and rehabilitation. In addition, many states have laws that require that children be placed in the least restrictive environment consistent with public safety needs or that prohibit the detention of children under juvenile court jurisdiction in adult facilities. Also, some states have laws or regulations setting standards for maximum inmate population sizes, building conditions, health and safety requirements, and programming mandates for facilities where children are detained.

The determination of whether a condition or practice violates the constitution or other laws depends on the particular case and the specific legal issue raised. Cases do not have identical circumstances. Thus, to assess the risk of lawsuits, correctional authorities must be knowledgeable about the cases most analogous to their situation and must realize that slight differences in facts could change the ruling. For this reason, the case law citations included in this overview as a starting point for research should not be taken as the definitive authority for cases involving similar issues. Also, this overview provides citations only to published cases—that is, cases appearing in the official court reports.

Many issues considered here have also been taken up by the American Bar Association Standards on Interim Status, American Correctional Association Standards for Juvenile Correctional Facilities, National Commission on Correctional Health Care Standards, and U.S. Department of Justice Standards for the Administration of Juvenile Justice. Professional standards reflect the collective wisdom of professionals in the field, and courts often use them as a guide for determining whether laws have been violated.

Complying with professional standards does not insulate facilities from liability. Many facilities have been successfully sued, even though they complied with the standards of a professional organization. This situation may occur when the standards do not address a particular issue or when the standards require only that there be an institutional policy on the issue without specifying its contents. The shortcomings of many commonly used standards prompted the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to call for the development of performance-based standards that specify the outcomes facilities should achieve (Parent and Leiter, 1994).

The constitutional standard for measuring violations under the due process clause, commonly used for children and pretrial detainees, is whether the detainees are being held under conditions that "amount to punishment" (see *Gary H.* v. *Hegstrom* and *Bell* v. *Wolfish*). These standards give more protection to children than would be afforded to convicted adult prisoners under the cruel and unusual punishment clause of the eighth amendment. In adult prison cases, inmates must show that the deprivation was sufficiently serious to constitute cruel and unusual punishment in that it involves the "unnecessary and wanton infliction of pain" and that the official acted with "deliberate indifference" (see *Wilson* v. *Seiter* and *Farmer* v. *Brennan*). The due process clause is a less rigorous standard and broadens the rights of juveniles.

This overview focuses primarily on federal civil rights litigation. State laws may create additional liabilities, eliminate certain defenses (such as immunity) for defendants, and determine who will be reimbursed or indemnified in damage cases. For example, lawsuits may be filed under state tort law or other specific statutes such as the federal Individuals With Disabilities Education Act.

Issues Arising in Institutional Litigation

The remainder of this overview discusses the numerous issues that commonly arise in institutional litigation on behalf of confined youth. Together the issues can be referred to using the acronym **CHAPTERS**. This acronym is an easy way to remember the following eight major areas of institutional considerations:

Classification and separation issues.

Health and mental health care.

Access to counsel, the courts, and family members.

Programming, education, and recreation.

Training and supervision of institutional staff.

Environment, sanitation, overcrowding, and privacy.

Restraints, isolation, punishment, and due process.

Safety issues for staff and confined youth.

Classification

Litigation on classification issues has addressed the separation of, or failure to separate, adult and juvenile inmates under a number of conditions, including segregation of violent or aggressive adult inmates, separation by age (e.g., the JJDPA sight and sound separation requirements), improper separation by gender or race, and separation of inmates with infectious diseases.

Separation of individuals with violent propensities. Much of the case law on classification involves claims by young or vulnerable adult inmates who were physically or sexually assaulted by inmates known to be criminally sophisticated, dangerous, violent, or aggressive. Adult inmates have the right to be protected from the threat of violence and sexual assault. If officials know of an inmate's vulnerability, they have an obligation not to act with deliberate or reckless indifference to that vulnerability. Counties or supervisory officials, as well as institutional staff, may be liable if their policies or customs (e.g., on jail overcrowding or handling of particular categories of inmates) amount to deliberate indifference to inmates' security needs (see *Smith* v. *Wade*, *Withers* v. *Levine*, *Woodhouse* v. *Virginia*, *Stokes* v. *Delcambre*, *Nelson* v. *Overberg*, *Redman* v. *County of San Diego*, and *Hale* v. *Tallapoosa County*).

The same principles apply to incarcerated youth who have the right to be free from unreasonable threats to their physical safety. Facilities must have a system for screening and separating aggressive juveniles from more passive ones and for determining appropriate levels of institutional classification (see *Alexander S.* v. *Boyd*). The failure to protect children from the sexual aggressiveness of other confined juveniles may result in liability (see *Guidry* v. *Rapides Parish School Board*).

Sight and sound separation/removal of children from adult jails/ deinstitutionalization of status offenders. JJDPA requires sight and sound separation of juveniles held under state juvenile court jurisdiction (and juveniles younger than age 18 under federal court jurisdiction) from adults in jails and lockups. The act does not apply to youth in adult facilities who are being prosecuted as adults in state court. In many adult facilities, impermissible contacts occur during admission to the facility, transportation to court, mealtime, and cleaning of living units.

Ironically, jails that separate juveniles from adults may run afoul of other constitutional protections because juveniles are typically isolated for long periods, without access to institutional programs and services. This situation led Congress to amend the act in 1980. Thus, federal regulations permit delinquent children to be held in lockups for only a limited number of hours before and after court hearings.

Separation by gender. Classification and separation of adult inmates may not be used to justify unequal program opportunities for one gender. Thus, educational, recreational, and vocational training programs for female inmates must be equivalent to those available to males (see *Glover* v. *Johnson*, *Mitchell* v. *Untreiner*, *Cantarino* v. *Wilson*, and *Women Prisoners of the District of Columbia Department of Corrections* v. *District of Columbia*). Compliance with this requirement is often a problem in institutions that house more men than women and that do not adequately provide for females' participation in courses, work opportunities, and recreational programs. Similar situations arise in juvenile facilities housing both female and male youth.

Separation by race. Classification, housing assignments, and job assignments that result in patterns of racial disparity may violate the 14th amendment (see *Santiago* v. *Miles*). Although facilities may take racial tensions into account when maintaining security, discipline, and order, they may not simply segregate the populations based on race (see *Lee* v. *Washington*, *Jones* v. *Diamond*, and *White* v. *Morris*).

Segregation of inmates for health reasons. The Bureau of Justice Statistics reported that, at the end of 1994, approximately 2.4 percent of male inmates and 3.9 percent of female inmates in adult correctional facilities were HIV positive. There are limited statistical data on the numbers of confined youth who are HIV positive, but the incidence of high-risk, unprotected sexual activity and intravenous drug use suggests that the rate may be even higher for detained youth.

Not surprisingly, a growing interest in classification litigation involves the treatment of inmates who are HIV positive. Issues commonly litigated include segregation (specifically the right to equivalent programming, access to the outside world, and services if segregated), mandatory testing, confidentiality, and medical treatment for HIV/AIDS (see *Harris* v. *Thigpen* and *Anderson* v. *Romero*).

Although existing case law helps to describe the relevant issues relating to HIV/AIDS, the decisions from various jurisdictions are inconsistent (compare *Camarillo* v. *McCarthy* and *Moore* v. *Mabus*, which found that segregation of inmates who are HIV positive violates the constitution; and *Zaczek* v. *Murray*, which affirmed a lower court holding that segregation and mandatory testing are not required by the constitution, with *Doe* v. *Coughlin*, which found that segregation of inmates who are HIV positive violates constitutional privacy rights). Soler (1993) offers a discussion of recent case law. To some degree, these decisions reflect the evolving state of medical knowledge on the treatment of HIV/AIDS and corresponding changes in public health policy about confidentiality, testing, and practices for reducing the risk of transmission. Juvenile detention centers must have thoughtful policies on all aspects of confining persons who may be HIV positive.

Health

Medical and dental care. Inmates are constitutionally entitled to medical care, including both screening and direct service. Institutions may not interfere with access to medical care or interfere with prescribed treatment for illness. Deliberate indifference to the serious medical needs of adult inmates violates the eighth amendment (see *Estelle* v. *Gamble* and *Boretti* v. *Wiscomb*). For example, the medical care system violated constitutional standards in *Ramos* v. *Lamm*, in which there were fewer than 10 hours per week of onsite physician care for an entire prison, overuse of physicians' substitutes, and use of inmates to deliver medical services. Budgetary constraints may not be used to justify a denial of necessary medical care (see *Jones* v. *Johnson*). Similarly, a substantial delay in medical treatment may result in a finding that medical care was constitutionally inadequate (see *Durmer* v. *O'Carroll*).

Each facility should have a screening mechanism for inmates. The screening should be done by a doctor or another professional who has had medical training. Many jails and lockups have a nonmedical person performing this task. This situation is not satisfactory and may result in a medical tragedy. Also, someone on staff must have the authority to transfer a seriously ill inmate to another medical facility (see *Colle* v. *Brazos County, Texas*).

In addition to screening, facilities must provide adequate medical services and access to medical supplies such as eyeglasses (*Williams* v. *I.C.C. Committee*), prescription medicines (*Gerakeris* v. *Champagne*), wheelchairs (*Weeks*

v. *Chaboudy*), special diets (*Coades* v. *Jeffes*), and dental care (*Boyd* v. *Knox*). In the adult system, cases have involved health-related claims that facilities have failed to make reasonable modifications to serve inmates with disabilities pursuant to the Americans With Disabilities Act of 1990 and claims that inmates have been denied the benefits of institutional programs because of a handicap under the Rehabilitation Act of 1973.

Mental health care. Children and adult inmates are constitutionally entitled to adequate mental health care. For the components of a minimally adequate mental health system see *Ruiz* v. *Estelle*. *Ramos* v. *Lamm* found that mental health services in an adult prison were grossly inadequate where 5 to 10 percent of inmates were mentally ill and 10 to 25 percent needed mental health treatment; a psychiatrist visited the prison only twice in the year before trial, and there was a 2- to 5-week wait for services from mental health staff. Similarly, *Coleman* v. *Wilson* found constitutional violations where a prison system failed to provide a systematic program for screening and evaluating inmates' mental health needs; a treatment program that involved more than segregation and close supervision of mentally ill inmates; access to a sufficient number of trained mental health professionals; maintenance of accurate, complete, and confidential mental health records; administration of psychotropic medication with appropriate supervision and periodic evaluation; and a basic program to identify, treat, and supervise inmates at risk for suicide (see *Madrid* v. *Gomez* for components of adequate institutional mental health services).

Many detained youth are mentally ill or suffer from severe emotional disturbances. Sometimes confinement adds to their disturbance. Therefore, facilities must screen minors for mental health problems, provide emergency psychological services, establish procedures for dealing with suicidal youngsters, make sure that medications are prescribed and administered by qualified medical personnel, establish provisions for children to request psychological care, and make sure that there is adequate staff for ongoing psychological services.

Juvenile cases addressing mental health needs of detained children include *Thomas* v. *Mears*, *Gary W.* v. *State of Louisiana*, *Morales* v. *Turman*, *Martarella* v. *Kelley*, *Morgan* v. *Sproat*, and *Ahrens* v. *Thomas*. The use of drugs for behavior control is constitutionally prohibited (see *Nelson* v. *Heyne* and *Pena* v. *New York State Division for Youth*). *Jackson* v. *Fort Stanton State Hospital & Training School* includes a discussion of the *Youngberg* v. *Romeo* standard in relation to developmentally disabled adults.

Apart from cases involving general mental health care in institutions, there are cases involving suicides and other harm to prisoners based on the indifference of officials to known mental health needs. Many cases involve suicides. *Buffington* v. *Baltimore City* deals with the liability of two police officers who knew that a detainee was on the verge of suicide but failed to follow department policy for the care of suicidal inmates; *Simmons* v. *City* *of Philadelphia* addresses holding the city liable for indifference to the medical needs of an intoxicated adult detainee who committed suicide; *Hare* v. *City of Corinth, Mississippi* treats refusing qualified immunity to jail officials for placing a suicidal inmate in an isolated cell that was not visually monitored despite a recent suicide and failing to have onsite staff with a key who could open the door once the inmate was seen hanging; *Heflin* v. *Stewart County, Tennessee* holds that the jury should have been permitted to decide whether the jail staff's failure to cut down a hanging inmate until photos had been taken (when evidence suggested that the inmate may have been alive) was deliberate indifference; *Hall* v. *Ryan* reverses the dismissal of a case in which evidence suggested that the defendants knew of the inmate's suicidal condition because of past encounters with the police department or were recklessly indifferent in failing to consult his file after observing his wild behavior; and *Cabrales* v. *County of Los Angeles* holds that a county could be liable for deliberate indifference when its policy of understaffing institutional mental health services contributed to the suicide of an inmate placed in isolation after a suicide attempt.

Again, the suicide cases demonstrate the need for thorough mental health screening by trained staff, policies governing the supervision and treatment of suicidal and at-risk inmates, and the availability of mental health services, particularly for detained children.

Access

This issue refers to a minor's right of access to family members and important people in his or her life. It also refers to access to the legal system. Minors have a right to reasonable access, and the cases that have addressed this issue discuss the standard of reasonableness in particular situations. The rules on mail access are more specific.

The experience of being incarcerated is traumatic for youth, particularly when placed in an adult facility. Youth need the emotional support of their family, and access to the community may be critical to the success of court intervention. Thus, in *D.B.* v. *Tewksbury* the court found that children confined in a jail were deprived of their constitutional rights when they were denied regular visits, use of the telephone, and mail services. The court found that these restrictions needlessly intensified children's fears and hostilities and were counterproductive to the goals of the juvenile justice system.

Visits. Institutions housing children must provide for reasonable visitation. Visits should be permitted during the day, with provisions for alternative visiting times for parents who are unable to visit during the normal hours. Approved visitors should include adult relatives, family friends, and siblings with approval from the minor's probation officer or counselor.

Unfortunately, punitive attitudes, understaffing, and limited visiting areas have restricted visiting opportunities for children. The right to reasonable visitation has been litigated in a number of juvenile cases, including *Ahrens* v. *Thomas, Thomas* v. *Mears, Gary W.* v. *State of Louisiana*, and *D.B.* v. *Tewksbury*. Visitation should not be curtailed because of overcrowding or staff shortages, according to *Patchette* v. *Nix*.

Telephone access. Case law does not set an absolute requirement for telephone use but insists a facility must provide reasonable access to telephones. Calls may be made to parents, relatives, and attorneys. Monitoring may occur only if justified. Limited staffing and few public telephones often result in undue restrictions on children's ability to make telephone calls from jails and lockups. Juvenile cases addressing telephone use include *Gary W.* v. *State of Louisiana* and *Ahrens* v. *Thomas*.

Mail access. There are two categories of mail: privileged and nonprivileged. Privileged mail is between the child and his or her attorney, a judge, a legislator, or some other public official and is usually designated as such (e.g., "legal mail") on the envelope. Privileged mail may not be opened by staff, except to inspect it for contraband according to *Wolff* v. *McDonnell*. Nonprivileged mail is all other mail and may be opened under certain circumstances to inspect for contraband or criminal activity. Even then, staff must have facts to support their suspicions.

If mail is to be read, the individual must be given an opportunity to appeal to someone other than the person who suspects the correspondence (see *Procunier* v. *Martinez*). The U.S. Supreme Court has permitted only limited restrictions on inmate mail. *Turner* v. *Safley* addresses correspondence between adult inmates at different correctional institutions; *Thornburgh* v. *Abbott* deals with rejection of publications found detrimental to institutional security; and *Ramos* v. *Lamm* addresses a ruling that struck down prohibition of correspondence in another language in an institution where one-third of the institutional population was Hispanic.

Access to the courts. Correctional facilities must ensure that inmates have meaningful access to both counsel and the courts (see *Younger* v. *Gilmore*). In *Bounds* v. *Smith*, the U.S. Supreme Court held that the provision of adequate libraries or adequate assistance from persons trained in the law would meet the constitutional requirement and that facilities should explore various avenues such as volunteer or legal services attorneys, law students, inmate paralegals, or public defenders to meet this requirement. More recently, in *Lewis* v. *Casey* the Court explained that inmates require the tools to argue their sentences or to challenge the conditions of their confinement. The rights of illiterate or non-English-speaking inmates might necessitate the provision of special assistance.

Earlier cases found constitutional violations where prison library systems imposed hurdles to access (see *Toussaint* v. *McCarthy*). Also, courts have held that prisons that offer paralegal assistance as an alternative to providing direct library access must provide trained legal assistants, and inmates must be supplied with a reasonable amount of office materials for court filing of documents (see *Gluth* v. *Kangas*, *Knop* v. *Johnson*, and *Ward* v. *Kort*). However, the Court emphasized, in *Lewis* v. *Casey*, that constitutional violations must be measured in relation to actual, not theoretical, injuries caused by the inadequacies of libraries or other legal assistance.

Unmonitored visits with attorneys must be allowed upon reasonable request. *Keker* v. *Procunier* and *Adams* v. *Carlson* address the duty of institutions to keep lines of communication open among inmates, attorneys, and the courts. The sixth amendment also includes the right of reasonable access to attorneys to challenge unlawful conditions and seek redress of constitutional rights under *Procunier* v. *Martinez*. Inmates must also be allowed to meet with attorneys on civil matters according to *U.S.* v. *Janis* and *Corpus* v. *Estelle*.

Programming

The U.S. Supreme Court has never expressly ruled on the right to treatment for juveniles, and lower court cases have ruled ambiguously on this issue. The Court has recognized a right to treatment for mentally retarded adults who, like children, are confined for treatment without their consent (see *Youngberg* v. *Romeo*). In addition, a number of courts have found a right to treatment in juvenile institutional cases. In *Alexander S.* v. *Boyd*, the court found a constitutional right to a minimally adequate level of programming designed to teach juveniles the principles essential to correct their behavior.

Exercise and recreation. Inmates are constitutionally entitled to fresh air and regular exercise (see *Spain* v. *Procunier*). In adult prisons, restriction to two 1-hour exercise periods per week has been held to violate the eighth amendment (see *Sweet* v. *South Carolina* and *Spain* v. *Procunier*). Where there is substantial access to indoor recreation areas, up to 18 hours per day, according to *Clay* v. *Miller*, there may be a finding of no violation, but such substantial alternatives often do not exist. Where the adult inmate is in disciplinary segregation, the institution must still explore ways to provide regular exercise and may restrict it only in exceptional circumstances (see *Mitchell* v. *Rice*).

Education/special education. The courts have made it clear that children in correctional facilities are entitled to the benefit of special education laws under *Green* v. *Johnson* and *Donnell C.* v. *Illinois State Board of Education*. Children eligible for special education are entitled to a broad range of assessment, evaluation, educational, and related services under the Individuals With Disabilities Education Act. Federal time lines for assessment and implementation apply, even when the child is in temporary detention (see U.S. Office of Civil Rights, Solano County Juvenile Hall, California, Case No. 09–89–1227 and *Nick O.* v. *Terhune*). Institutions confining children must also refrain from discriminating against educationally handicapped children under the Rehabilitation Act of 1973.

Religion. Facilities housing children or adult inmates must accommodate religious observances. The traditional view was that religious practices must be allowed provided they did not jeopardize the security of the institution (see *Cruz* v. *Beto*). In recent years, the Court has taken a narrower view, holding that limitations on the exercise of religion are permissible if they are related to a legitimate penological objective (see *O'Lone* v. *Estate of Shabazz*). However, the Religious Freedom Restoration Act of 1993 appears to restore a higher standard of legal scrutiny. The government must show a "compelling interest" before impinging on religious practices and use the least restrictive means of regulation.

Work. Children may be required to clean their cells or living areas but cannot be forced to do chores for the personal benefit of staff or be exploited for their labor. Limited case law specifically relates to children on this issue, but the legal theory is clear. People who have not been convicted of a crime may not be punished under the due process principles articulated in *Bell* v. *Wolfish*. By analogy to the forced labor cases involving mentally ill patients, *Johnson* v. *Cicone* and *Tyler* v. *Harris* found that inappropriate work requirements may violate the 13th amendment or provisions of the federal Fair Labor Standards Act (see *Weidenfeller* v. *Kidulis*, *Souder* v. *Brennan*, *Wyatt* v. *Stickney*, and *Wyatt* v. *Aderholt*).

Training

Over the past decade, courts have ruled on the liability of institutional administrators and supervisors for a wide range of conduct relating to the hiring, training, supervising, assigning, directing, and retaining of staff. Liability may be imposed if supervisors hire unqualified people, fail to train staff adequately, fail to supervise staff on the job, fail to provide staff with formal policy and procedural guidelines, or fail to fire unfit staff. These issues typically arise in cases where injuries or death have occurred and staff have not been trained to handle suicidal children or medical emergencies.

Failure to properly hire or train personnel may constitute indifference to the rights or safety of others and may support liability for punitive damages under *Smith* v. *Wade*. This case is particularly relevant where there is a governmental pattern of deliberate indifference resulting in injury to the plaintiff (see *Partridge* v. *Two Unknown Police Officers of the City of Houston, Texas*, and *McKenna* v. *City of Memphis*). The right to properly trained staff is well established. Thus, in *Garrett* v. *Rader*, where the plaintiff's developmentally disabled daughter died in restraints administered by untrained staff, the defendants were not permitted to claim qualified immunity.

Under *City of Canton, Ohio*, v. *Harris*, a failure to train employees may also form the basis for municipal liability in federal civil rights litigation. The issue is whether the training program is adequate and, if it is not, whether the inadequate training can justifiably be said to represent city policy. Thus, in *Simmons* v. *City of Philadelphia*, the city's policy or custom of not training its officers to deal with suicidal inmates amounted to deliberate indifference to inmates' serious medical needs. Similarly, *Gobel* v. *Maricopa County* holds that a government entity may be liable for the failure to train properly its employees if there is a connection between the violation of civil rights and the inadequate training (see *Davis* v. *Mason County* and *Young* v. *Augusta, Georgia*).

Environment

Unsanitary and inhumane environmental conditions may violate inmates' rights under the 8th and 14th amendments (see *Hoptowit* v. *Spellman*, *McCord* v. *Maggio*, *Jones* v. *Diamond*, and *Carver* v. *Knox County, Tennessee*). Environmental issues may arise if children are housed in inadequate, dilapidated, or unhygienic physical surroundings (see *Inmates of Boys Training School* v. *Affleck*, *Ahrens* v. *Thomas*, and *Thomas* v. *Mears*).

Sanitation. There should be no sewage backup in sleeping quarters, and the area should be free of insects and rodents. The living area should be clean and comply with local and state sanitation regulations. Thus, *Ramos* v. *Lamm* found constitutional violations at a prison with poor ventilation, fungus and mold, poor drainage, sewage accumulation, rodent and insect infestation, missing tiles/hard-to-clean bathroom areas, exposed wiring, broken windows, inadequate laundry facilities, deteriorating conditions, and inadequate maintenance. Along the same line, *McCord* v. *Maggio* held that lack of funds was not a justification for requiring inmates to live in cells where sewage backup created squalid and unsanitary conditions.

Hygiene. Children in custody should be provided with adequate supplies for personal hygiene and should be given an opportunity to shower daily, change their clothing reasonably often, and have fresh bed linens on a weekly basis under *Ahrens* v. *Thomas* and *Inmates of Boys Training School* v. *Affleck*.

Food. Institutions housing children must provide a balanced diet, with three meals each day and snacks at night. Food should be prepared in accord with public health standards. Food should not be old or moldy; there should not be evidence of insects, rodents, or bad sanitation; and inmate workers should be trained in food preparation and storage (see *Ramos* v. *Lamm*). Food should never be withheld from children for disciplinary reasons (see *Ahrens* v. *Thomas* and *Inmates of Boys Training School* v. *Affleck*).

Ventilation, heating, and cooling. Housing inmates in units with inadequate ventilation and air flow is unconstitutional according to *Hopowit* v. *Spellman* and *Brock* v. *Warren County, Tennessee*. Inadequate ventilation, heating, and cooling may violate inmates' constitutional right to adequate shelter under *Ramos* v. *Lamm*, *Ahrens* v. *Thomas*, *Henderson* v. *De Robertis*, and *Del Raine* v. *Williford*. The Court has also recognized that involuntary exposure to unreasonable environmental tobacco smoke may violate the constitution (see *Helling* v. *McKinney*).

Fire safety. This is a critical area since failure to adequately provide for fire safety may be a matter of life or death (see *Hopowit* v. *Spellman*). The facility must have smoke-monitoring devices, a written evacuation plan with posted diagrams for inmates and staff, at least two fire escape routes, fire extinguishers, and lights marking the fire exits (see *Ahrens* v. *Thomas*).

Lighting. The courts have not required specific levels of candle power, but professional standards require that lighting be sufficient for detainees to comfortably read books in their cells without eyestrain (see *Hopowit* v. *Spellman*, *Ramos* v. *Lamm*, *McCord* v. *Maggio*, and *Jones* v. *Diamond*). Juvenile cases addressing lighting include *Ahrens* v. *Thomas* and *Inmates of Boys Training School* v. *Affleck*.

Clothing/personal appearance. Children have a right to clean clothing under *Inmates of Boys Training School* v. *Affleck*. Clothing should be appropriate for the season, and children should be able to wear clothing similar to that worn by children in the community (see *Thomas* v. *Mears*). Also, restrictions on personal appearance that are unrelated to penological interests may violate prisoners' privacy rights (see *Quinn* v. *Nix* on striking down a prohibition on shag hairstyles).

Overcrowding. This is a critical issue because it is related to so many others. The effects of overcrowding permeate every aspect of institutional operation, including health issues, education, suicidal and assaultive behavior, and overreliance on restraints and disciplinary measures. Under the constitutional standard, the due process clause is violated where children are held under conditions that amount to punishment (see *Gary H.* v. *Hegstrom* and *Bell* v. *Wolfish*).

In measuring overcrowding against constitutional standards, the courts look not at overcrowding per se but at its impact upon conditions in the institution. *Rhodes* v. *Chapman* stands for the proposition that double-celling itself is not unconstitutional but that it is a factor to be taken into account with other prison conditions affecting essential needs (see *Wilson* v. *Seiter*). Thus, in *Nami* v. *Fauver* juveniles in the administrative segregation unit of a youth correctional facility could claim constitutional violations when they were double-celled in poorly ventilated, 80-square-foot rooms with only one bed, with violent or psychologically disturbed felons who abused them. Similarly, in *Hall* v. *Dalton* the court found constitutional inadequacies in a city jail where an adult inmate spent 40 days in a windowless, two-person cell that held four, with only 14 square feet per person, where meals were served in the cells, where there was little opportunity for exercise, and where the inmates had to sleep on the floor (see the additional adult cases of *Tillery* v. *Owens*, *Balla* v. *Board of Corrections*, *Fisher*

v. *Koehler*, *Baker* v. *Holden*, *Feliciano* v. *Colon*, *Stone* v. *City and County of San Francisco*, *Young* v. *Keohane*, and *Williams* v. *Griffin*).

There is also case law on overcrowding-related issues such as sleeping conditions. Several cases specifically hold that assigning pretrial detainees to sleep on mattresses on the floor violates the due process clause (see *Lareau* v. *Manson*, *Thompson* v. *City of Los Angeles*, and *Lyons* v. *Powell*). Similarly, courts have ruled on overcrowding in juvenile facilities as it relates to program effectiveness, physical plant, staff, security, and other conditions of confinement (see *Alexander S.* v. *Boyd* and *A.J.* v. *Kierst*). Where overpopulation has an impact upon the availability of health and mental health services, educational programs, and recreation; institutional violence; suicide attempts; and situations requiring the use of force or restraints, the courts may find a violation of the 14th amendment. In addition, courts may find that the constitution is violated where overpopulation means that children spend most of their waking hours locked in their rooms because of inadequate staff to supervise day rooms or recreational activities.

Courts around the country have imposed population caps to alleviate overcrowding, even when officials claimed that overcrowding was a result of budgetary constraints (see *Alberti* v. *Sheriff of Harris County, Texas*). In a recent juvenile institutional case, the West Virginia Supreme Court of Appeals ordered that no juvenile detention facilities may accept children beyond their licensed capacity, no child may be held in detention longer than 30 days pending disposition of his or her case, and no child may be held longer than 14 days pending postdisposition placement in an appropriate setting. In addition, the court ordered that detention centers must adopt modified versions of the American Bar Association's detention standards at intake (see *Facilities Review Panel* v. *Coe*).

The Prison Reform Litigation Act of 1995 limits the permissible remedies in cases involving prison conditions and imposes special requirements on prisoner release orders. Nonetheless, relief may still be granted to remedy overcrowding, consistent with the provisions of the act.

Searches. Incarcerated individuals retain some privacy rights. In *Bell* v. *Wolfish*, the U.S. Supreme Court held that a determination of whether body cavity searches may be conducted requires balancing the need for a particular search with the invasion of personal rights. For example, adult inmates are entitled to some protection against exposure of their genitals to persons of the opposite gender (see *Arey* v. *Robinson*, *Lee* v. *Downs*, and *Hayes* v. *Marriott*). Similarly, random, suspicionless, clothed searches of female inmates have been found unconstitutional in *Jordan* v. *Gardner*. Also, blanket policies allowing strip searches of all detained persons represent an unconstitutional intrusion into personal rights (see *Chapman* v. *Nichols*, *Mary Beth G.* v. *City of Chicago*, *Giles* v. *Ackerman*, *Ward* v. *County of San Diego*, and *Thompson* v. *Souza* on recognizing qualified immunity of officials for visual body cavity searches and urine tests of prisoners preselected for prior drug involvement and *Thompson* v. *City of Los Angeles* on holding that grand theft auto is sufficiently associated with violence to justify a strip search based on the charge itself).

Courts have remained protective in cross-gender searches of female inmates, disapproving practices such as random, clothed body searches of female inmates by male guards in *Jordan* v. *Gardner* and body cavity searches of females in the presence of male officers in *Bonitz* v. *Fair*. Even patdown searches of male inmates by female staff violates inmate rights if improperly conducted (see *Watson* v. *Jones*). In some situations, male inmates enjoy fewer protections than females. The courts have recognized that female guards may conduct visual body cavity searches of male inmates, and may supervise male prisoners disrobing, showering, and using the toilets under *Grummet* v. *Rushen*, *Somers* v. *Thorman*, and *Johnson* v. *Phelan*.

Restraints

Mechanical restraints. Facilities vary in their use of mechanical restraints. Most juvenile facilities use handcuffs, but the use of four-point restraints or straitjackets is rare. In some facilities, a high incidence of restraint incidents results from inadequate staff training and overcrowding. In others, restraints are used to control mentally ill children or adult inmates or as a punitive measure for troublesome youth.

Freedom from bodily restraint is a protected liberty under *Youngberg* v. *Romeo*. Thus, in *Garrett* v. *Rader*, the mother of a retarded adult who died in restraints was entitled to bring an action claiming failure to properly hire and train staff and failure to correct conditions that had caused past abuse.

One court has prohibited the restraint of children to a fixed object (see *Pena* v. *New York State Division for Youth*). The use of restraints as corporal punishment is unconstitutional under *H.C.* v. *Hewett by Jarrard* and *Stewart* v. *Rhodes*. Moreover, the use of restraints as a retaliatory device against inmates who displease correctional officers may violate the constitution (see *Davidson* v. *Flynn*).

Other courts dealing with the use of mechanical restraints have found that due process is violated unless recommended by a health professional (see *Wells* v. *Franzen* and *O'Donnell* v. *Thomas* on permitting restraint of a suicidal inmate and *Jones* v. *Thompson* on finding that use of three-way restraints on a suicidal inmate for a week, coupled with a failure to provide medical treatment or review and the absence of personal hygiene amenities, was unconstitutional). The U.S. Supreme Court permits the use of antipsychotic drugs as a form of medical restraint only where there is substantial due process protection for the inmate (see *Washington* v. *Harper* and *Riggins* v. *Nevada*).

There is some authority that restraints may be used for a limited period to prevent self-injury by a minor under *Milonas* v. *Williams* and *Gary W.* v. *State of Louisiana*. Such courts have also held that restraints may not be used for longer than 30 minutes without authorization from qualified professionals or institutional administrators (see *Gary W.* v. *State of Louisiana* and *Pena* v. *New York Division for Youth*).

Chemical restraints. A few juvenile institutions have begun to use tear gas or pepper spray to restrain children. Although pepper spray alone may not cause death, it may pose serious danger for inmates who suffer from certain health conditions.

Although the use of chemical restraints has seldom been litigated in juvenile cases, at least two cases have found that the use of tear gas and mace on children who were troublesome, uncooperative, or unresponsive to staff violated the constitution (see *Morales* v. *Turman*, and *State of West Virginia* v. *Werner*). Similarly, *Alexander S.* v. *Boyd* found it improper to use tear gas on children to enforce orders.

Isolation. Most institutions use isolation for out-of-control individuals or as punishment for breaking rules. Even though isolation is commonly imposed as a sanction in juvenile institutions, some courts have found that children may be placed in isolation only when they pose immediate threats to themselves or others, that they must be monitored closely, and that they must be released as soon as they have regained control of themselves.

Adult institutional case law on the use of isolation as punishment focuses on arbitrary placement in isolation, the length of time imposed, and conditions in the isolation room (see *Harris v. Maloughney*, *McCray* v. *Burrell*, and *Lareau* v. *MacDougall*). The cases, demanding that persons in isolation be afforded humane physical conditions and access to basic necessities such as showers and exercise, also apply to children. Children in isolation should be given books, writing materials, and articles of personal hygiene.

What may be acceptable as punishment for adults may be unacceptable for children. Children have a very different perception of time (5 minutes may seem like an eternity), and their capacity to cope with sensory deprivation is limited. Thus, in *Lollis* v. *New York State Department of Social Services*, a 14-year-old status offender who got into a fight with another girl was placed in isolation in a 6- by 9-foot room for 24 hours a day, for 2 weeks. The court found this isolation to be unconstitutional.

Corporal punishment. The wanton infliction of pain on prisoners violates the eighth amendment under *Weems* v. *United States* and *Jackson* v. *Bishop*. The use of excessive force by police or custodial officials violates the 14th amendment under *Hewitt* v. *City of Truth or Consequences* and *Meade* v. *Gibbs*. Torturing inmates to coerce information from them is also improper (see *Cohen* v. *Coahoma County, Mississippi*). Similarly, depriving an inmate of adequate food is a form of corporal punishment (see *Cooper* v. *Sheriff, Lubbock, Texas*).

Due process. A huge body of law governs disciplinary due process in adult institutional cases, mostly in relation to administrative segregation or disciplinary transfers. The leading case, *Wolff* v. *McDonnell*, holds that inmates are entitled to these protections whenever "major" discipline is to be imposed (see *Baxter* v. *Palmigiano*). There must be evidence to support the finding of the disciplinary board.

During disciplinary proceedings, inmates are entitled to advance written notice of the charges against them, an opportunity to call witnesses and present evidence in their defense where permitting them to do so would not be unduly hazardous to institutional safety or correctional goals, an impartial decisionmaker, a written decision describing the evidence relied upon and the reasons for any disciplinary action taken, and a procedure for appealing the decision (see *Hewitt* v. *Helm*, *Punte* v. *Real*, and *Sandin* v. *Conner*).

Grievance procedures. Grievance procedures are important to children because they provide a means of addressing perceived injustices, and they thereby assist the rehabilitative process. They are also important to institutional administrators, since they provide information about abuses that may be occurring. In cases involving adults, it is clear that the constitutional right to seek redress of grievances is violated if there is any retaliation against the prisoner for filing a grievance (see *Dixon* v. *Brown*). Similarly, grievance procedures may not place unreasonable restrictions on the language that may be used in presenting the inmate's complaint under *Bradley* v. *Brown*.

Constitutional law specific to grievance procedures for children is limited, but many cases have approved various forms of grievance procedures. The basic elements of adequate procedures are notice to the children of the availability, purpose, and scope of the procedure; a clear and simple procedure for the child to present a grievance to staff; prompt investigation of the grievance; an opportunity for the child to present the grievance to an impartial panel; notice to the child of the panel's decision; appropriate disciplinary sanctions to staff if the grievance is found justified; and written records of the procedure and final action.

Safety

Inmates have a right to personal safety under *Youngberg* v. *Romeo*, *Jackson* v. *Fort Stanton State Hospital & Training School*, *Smith* v. *Wade*, *Farmer* v. *Brennan*, *Ramos* v. *Lamm*, and *Harris* v. *Maynard*. A growing body of case law explores the limits of the constitutional right to safety and the liability of institutional officials for the failure to protect vulnerable inmates (see *Young* v. *Quinlan*, *Redman* v. *County of San Diego*, *LaMarca* v. *Turner*, *Miller* v. *Glanz*, *Luciano* v. *Galindo*, *Sampley* v. *Ruettgers*, and *Hill* v. *Shelander*).

In *Hudson* v. *McMillan*, the U.S. Supreme Court held that minor injuries suffered by a handcuffed, shackled inmate beaten by three Louisiana prison guards constituted a violation of the eighth amendment. The supervisor on duty had watched the beating and told the guards "not to have too much fun." The Court held that in measuring the objective component of a violation of the eighth amendment, courts should be guided by contemporary standards of decency (*Wilson* v. *Seiter*) and, when officials act sadistically, those standards are always violated whether significant injury is evident or not (see *Felix* v. *McCarthy* on denying qualified immunity to prison guards in connection with an unprovoked attack on an inmate, even though the injury to the inmate was slight, and *Valencia* v. *Wiggins* on denying qualified immunity to a jailer who bashed an inmate's head against cell bars and used a choke hold that rendered the inmate unconscious).

It is difficult to say when violence reaches constitutional proportions. A California court ruled in *Inmates of Riverside County Jail* v. *Clark* that violence had reached an unacceptable level when there was a one in three chance that an inmate would become a victim of violence. In *LaMarca* v. *Turner*, the court examined reports showing that the prison superintendent was aware of the level of violence and the conditions contributing to it without acting to remedy the situation.

There has been less litigation over safety issues in juvenile facilities, but the same principles apply; facilities must protect children from violence and sexual assault by other children (see *Guidry* v. *Rapides Parish School Board* and *C.J.W. by and through L.W.* v. *State*). In monitoring safety issues in juvenile institutions, it is crucial to examine reports of violence or potential violence from individuals, the number and characteristics of violent incidents, and the level of fear in the institution. Another safety issue that, fortunately, arises less frequently is staff brutality. There are few cases on this issue, but further research on the use of excessive force would be valuable.

State Statutes and Juvenile Transfer Laws

During the past decade, most states have adopted legislation that permits the transfer of youth to adult courts to be tried as adults. Usually these laws target serious crimes and permit the age of jurisdiction to be lowered. Relative to the issue of juveniles in adult correctional facilities, these laws often become the basis for a juvenile to be housed in a jail if charged and awaiting court disposition or in a prison if the juvenile has been convicted and sentenced.

Between 1992 and 1996, 45 states and the District of Columbia made substantive changes to their laws targeting juveniles who commit violent or serious crimes (Torbet et al., 1996). All but 10 states adopted or modified laws making it easier to prosecute juveniles in criminal court. Nearly half of the states (24) added crimes to the list of offenses excluded from juvenile court jurisdiction, and 36 states and the District of Columbia excluded certain categories of juveniles from juvenile court jurisdiction. The list of offenses considered serious enough to warrant the transfer of youth as young as age 14 included murder, aggravated assault, armed robbery, and rape as well as less serious and violent offenses such as aggravated stalking, lewd and lascivious assault or other acts in the presence of a child, sodomy, oral copulation, and violation of drug laws near a school or park. Since 1992, 13 states and the District of Columbia have added or modified statutes that provide for a mandatory minimum term of incarceration for juveniles adjudicated delinquent for certain serious and violent crimes.

A legal method used to try a youth as an adult is accomplished by lowering the age of jurisdiction. For example, seven states (Georgia, Illinois, Louisiana, Massachusetts, Michigan, South Carolina, and Texas) set their age of jurisdiction at 16, whereas three (Connecticut, New York, and North Carolina) have lowered the age to 15. Missouri lowered the age for transfer to criminal court to 12 for any felony. In all but two states (Nebraska and New York), a juvenile court judge can waive jurisdiction over a case and transfer youth to the adult court for certain crimes and at certain ages. The number of juvenile court cases transferred to criminal court increased 71 percent between 1985 and 1994 and 42 percent from 1990 to 1994 (Butts, 1996).

Although the legal basis for waiver varies from state to state, the trend across the country is to expand the use of waivers. This expansion is being accomplished by casting wider nets for waiver by lowering the age of adult jurisdiction, by adding to the list of applicable crimes, and by adopting more procedures by which youth can be transferred to adult court (e.g., through the discretion of the prosecutor or through legislative mandate). Waiver provisions are often applied to nonviolent offenders and, in some states, running away from a juvenile institution is grounds for prosecution in adult court (Shauffer et al., 1993).

As part of this study, an updated assessment of current statutes affecting the ability to try a juvenile as an adult is summarized in appendix A. As shown in chapter 3, these laws have fueled the rapid increase in juveniles being housed in adult prisons and jails.

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Characteristics of Juveniles Housed in Adult Jails and Prisons

Introduction

A current and accurate enumeration of juveniles confined in adult prisons and jails is essential to understand the issue of youth in adult facilities. Data on youthful offenders in national reports were not sufficiently complete or comprehensive to achieve the level of detail required for this study. Consequently, a comprehensive national survey of adult jail and prison systems was required.

Two survey instruments were developed to obtain data on youthful offenders, one for adult state prison systems and one for state and local adult correctional facilities. Both surveys were modeled after the Bureau of Justice Statistics correctional facility surveys. The most critical assumption in developing the surveys was a precise definition of a youthful offender. For these surveys, a "youthful offender" was defined as a person age 17 or younger. In most states, 18-year-old offenders are considered adults and are normally tried in adult court. By focusing on the population age 17 and younger, the surveys concentrated on offenders generally considered juveniles and whose presence in adult correctional facilities was exceptional.

The purpose of the correctional system-level survey was to collect data on the number and characteristics of all youthful offenders incarcerated in a state's prison system, as well as to compare these characteristics with those of the adult offenders incarcerated in the system. The survey collected data on the custodial status of the juvenile residential population, housing patterns, offense background, race/ethnicity, age, length of stay, disciplinary actions, programs, litigation, health services, and capacity.

The facility-level survey was intended to provide specific information on the actual conditions of confinement in prisons and data about some of the large jail systems. This survey asked questions about facility characteristics, housing patterns, offense history, race/ethnicity, age, length of stay, disciplinary actions, programs, litigation, and health services. Although the facility survey addresses many of the issues identified in the system survey, it is designed to give a better sense of the "fit" between the youth and the adults in these institutions.

Both the system- and facility-level surveys were sent to each state prison system, the Federal Bureau of Prisons, and 19 jail systems. The selected jails included all the major metropolitan jail systems and a sample of small and medium-size jails throughout the country. In total, 70 surveys were distributed. Surveys were mailed in September 1998, and a followup survey was mailed in January 1999. Participating state and local systems were instructed to complete the system-level survey and disseminate the facility-level survey to any facilities in their jurisdiction that housed youthful offenders. The number of participants in the facility-level survey was dependent on the number of adult facilities identified by jurisdictions as housing juveniles, the number of such facilities to which the jurisdictions mailed the facility survey, and the willingness of these particular facilities to respond to the survey.

All 50 states, 3 of the 19 jail systems (Los Angeles County, New York City, and Philadelphia), and the District of Columbia responded to the system-level survey, and 196 correctional agencies responded to the facility-level survey. Despite efforts to solicit their participation, the Federal Bureau of Prisons and other selected jail systems refused to take part in this research. Consequently, these results are not representative of the total population of juveniles in adult prisons.

Findings

Correctional System Survey Findings

Most state adult correctional systems house youthful offenders. Of the 54 jurisdictions responding, 87 percent housed incarcerated juveniles. In terms of the legal status of incarcerated juveniles, 96 percent of the reported youthful offender population fell into two major categories: 23 percent were held as adjudicated juvenile offenders or pretrial detainees, and 75 percent were sentenced as adults.

Two objectives of the survey were to identify the characteristics of youth currently held in adult correctional facilities and to compare the characteristics of the youthful offender population with those of adult offenders held in the same facilities. These data provided information on the types of youth who were incarcerated in adult facilities and their similarities to the adult population housed in these facilities.

The total adult correctional system capacity identified by survey respondents was 826,289 beds. Of the respondents, 46 percent maintained housing designated for youthful offenders. The capacity of these units for youthful offenders totaled 6,708 beds or less than 1 percent of the overall system capacity identified by the respondents.

Seventeen states and the District of Columbia indicated that they maintained separate housing specifically for youthful offenders (table 4). The presence of separate housing for youthful offenders does not necessarily mean that *all* youthful offenders were housed in these separate facilities. States with large youthful offender populations, by necessity, often housed

Table 4 State Systems That Maintain Separate Housing Units for Incarcerated Youth

State	Capacity
Alabama	266
Arizona	196
Connecticut	N/R*
Delaware	40
District of Columbia	40
Florida	2,785
Georgia	N/R*
Michigan	96
Mississippi	60
Missouri	50
Nebraska	68
North Carolina	652
Ohio	N/R*
Tennessee	N/R*
Texas	N/R*
Washington	150
Wisconsin	400
Wyoming	34

*Not reported.

youthful offenders with the adult population when their housing capacity for youth was exceeded. Although a significant number of states maintained separate housing for youthful offenders, their definition of a "youthful" offender was frequently more expansive than the definition used here. In Florida, for example, youthful offenders from the ages of 14 to 24 were provided with dedicated housing and programs.

The number of youthful offenders in each system surveyed is presented in table 5, along with data on the reported number of adult offenders in these systems. The total adult residential population identified by the survey was 1,069,244 offenders in 1998. The youthful offender population totaled

4,775 or 0.5 percent of the total population. For these same respondents, the average system population for calendar year 1997 was 937,460 offenders, with an average youthful offender population of 4,078, again roughly 0.5 percent of the total population. The total average female youthful offender population for all reporting systems was 158 offenders, which

Table 5 State Prison Populations, Youth and Adult, 1998

State	Youth	Adult	State	Youth	Adult
Alabama	104	20,488	Montana	81	2,714
Alaska	24	2,897	Nebraska	29	3,532
Arizona	140	25,154	Nevada	36	9,164
Arkansas	89	10,677	New Jersey	35	23,989
California	163	161,466	New Mexico	9	5,031
Colorado	23	13,773	New York	316	69,499
Connecticut	505	15,778	North Carolina	369	32,118
Delaware	20	3,211	Ohio	158	48,972
D.C.	26	6,719	Oklahoma	46	14,603
Florida	572	66,117	Oregon	25	8,253
Georgia	152	39,347	Pennsylvania	98	35,765
Hawaii	2	4,009	Rhode Island	0	3,657
Idaho	10	3,545	South Carolina	200	20,916
Illinois	162	42,292	South Dakota	N/R*	2,359
Indiana	89	18,830	Tennessee	37	15,554
Iowa	9	7,394	Texas	272	129,661
Louisiana	87	33,572	Utah	21	5,084
Maryland	76	22,566	Vermont	15	1,198
Massachusetts	13	11,224	Virginia	84	26,578
Michigan	208	38,927	Washington	104	13,866
Minnesota	32	5,562	Wisconsin	22	166
Mississippi	164	16,291	Wyoming	37	1,233
Missouri	111	25,493	**Total**	**4,775**	**1,069,244**

*Not reported.

Source: Bureau of Justice Statistics, 1999.

is approximately 3.3 percent of the entire youthful offender population in adult facilities. This proportion of female offenders is somewhat lower than that reported for adult female offenders. Survey respondents indicated that adult female offenders constituted approximately 6 percent of the total adult offender population. Approximately 22 percent of the systems surveyed were planning to expand their youthful offender capacity (table 6).

Table 6 Future Housing Expansion Plans for Youthful Offenders

State	Number of beds	
	Males	Females
Arizona	350	30
Colorado	180	N/R*
Michigan	480	0
Nevada	N/R*	N/R*
Ohio	103	0
Pennsylvania	500	0
Washington	N/R*	N/R*

*Not reported.

As indicated in table 7, approximately 51 percent of the youthful offender population were housed in dormitory settings. Youth in single cells accounted for 30 percent of all housing assignments, whereas 19 percent of the youth population were housed in double cells. By comparison, 43 percent of adults were housed in dormitories, 22 percent in single cells, and 35 percent in double cells. Youthful offenders were much more likely to be housed in either a dormitory or a single cell, and a double cell was much more prevalent for adult offenders.

The profile of youthful offenders in adult facilities shows the predominance of youth convicted of crimes against persons (table 7). Fifty-seven percent of all youthful offenders were being held for an offense against a person, compared with 44 percent of the adult inmate population. Property offenders made up 21 percent of the youthful offender population and 20 percent of the adult population. Juveniles in adult facilities were less likely to be held for drug-related offenses than their adult counterparts (10 percent and 20 percent, respectively). The remaining major distinction between the offense profiles of the adult and youthful offender populations was the presence of a significant number of parole/probation violators in the adult population. Respondents reported that 8 percent of the

Table 7 Characteristics of State Prison Inmates, 1998*

Offense/Crime	Youth		Adult		Total
	Number	Percentage	Number	Percentage	
Persons	2,722	57%	473,821	44%	476,544
Property	974	21%	216,756	20%	217,730
Alcohol Related	135	3%	20,457	2%	20,592
Drug Related	467	10%	210,975	20%	211,442
Public Order	185	4%	40,468	4%	40,653
Parole/Probation	79	2%	90,260	8%	90,339
Unknown	92	2%	5,676	1%	5,768
Other	85	2%	13,327	1%	13,412
Total	**4,739**	**100%**	**1,071,740**	**100%**	**1,076,479**
Race/Ethnicity					
Asian	65	1%	11,056	1%	11,121
Black	2,706	55%	497,343	48%	500,050
White	1,309	26%	355,960	35%	357,269
Hispanic	689	14%	156,782	15%	157,471
Native American	176	4%	9,421	1%	9,597
Total	**4,945**	**100%**	**1,030,562**	**100%**	**1,035,507**
Housing Type†					
Single Cell	1,019	30%	120,221	22%	121,240
Double Cell	670	19%	193,754	35%	194,424
Dormitory	1,757	51%	237,801	43%	239,559
Total	**3,446**	**100%**	**551,776**	**100%**	**555,222**

*Discrepancies in totals are due to rounding.

†Housing type statistics are reported for 21 states that house juveniles in adult correctional facilities.

adult offender population were parole/probation violators, compared with only 2 percent of the youthful offender population.

These data suggest that the perception that youthful offenders are being transferred to adult correctional systems for more serious offenses is largely accurate. Violent offenders made up a substantially higher proportion of the youthful offender population in adult facilities than were present in the adult offender population. Although some research indicates that the majority of juvenile transfer cases involve nonviolent, less serious offenses, these data suggest that the justice system draws appropriate distinctions in determining the types of youthful offenders who are sent to adult correctional facilities.

In terms of race/ethnicity, 55 percent of the youthful offender population was black, compared with 48 percent of the adult offender population (table 7). The proportion of the youthful and adult population with a Hispanic background was 14 percent and 15 percent, respectively. Approximately 26 percent of the youthful offenders were white, compared with 35 percent of the adult population. These data suggest that the concerns expressed regarding the overrepresentation of minority youth among juvenile offenders in adult facilities have some basis, at least with regard to black males.

The age distribution of the youthful offender population was heavily skewed toward 17-year-olds (table 8). Approximately 78 percent of the reported youthful offender population was 17, with another 18 percent in the 16-year-old category. In a number of states such as Illinois, Michigan, and New York, 17-year-olds are considered adults. Accordingly, the presence of 17-year-old offenders in these states' populations does not necessarily reflect a policy of juvenile transfer, but simply a function of the normal prosecution of adult offenders. Few offenders were below the age of 16 in adult correctional facilities. The youngest reported age of a youthful offender in an adult facility was 13 years.

Table 8 Age of Youthful Offender Population, 1998

Age of Offender	Female	Male	Total
13	0	1	1
14	0	11	11
15	9	117	126
16	32	782	814
17	135	3,532	3,667
Total	**167**	**4,443**	**4,610**

In the course of a year, the number of youth experiencing some form of incarceration in an adult facility is much higher than the number shown by a 1-day count. Respondents reported 13,876 youthful offender admissions to adult correctional facilities in 1997 (table 9). Not all jurisdictions reported

Table 9 Juvenile Population Movement Patterns, 1997

Movement Type	Female	Male	Total
Admissions	843	13,033	13,876
Discharges	612	7,274	7,886
Average Length of Stay	106 days	231 days	N/A*

*Not available.

release data; those that did reported 7,886 releases in 1997. The average length of stay for youthful offenders was 106 days for female offenders and 231 days for male offenders. These data are for youth who completed their time served, so they understate the actual length of stay for the youthful offender population by excluding more serious offenders with long-term sentences.

Table 10 Programs Offered by Adult Correctional Systems to Youthful Offenders, 1998

Program Type	Systems Offering Programming	Total Percentage
Formal Elementary or Secondary Education	39	93%
Special Education	38	90
Vocational/Technical Education	35	85
GED Preparation	42	100
College Program	20	50
Counseling Programs	40	100
Psychological/Psychiatric Counseling	42	98
Family Counseling	23	53
Employment Counseling	34	79
Health and Nutrition	36	84
AIDS Prevention Counseling	35	81
Youth Alcohol and Drug Treatment	24	56
Youth Sex Offender Treatment	11	26
Youth Violent Offender Treatment	17	40
Other	21	55

The program offerings of the adult systems were fairly consistent, focusing on education and basic counseling services. As shown in table 10, most respondents offered formal elementary and secondary education programs, special education, general equivalency diploma (GED) preparation, individual counseling, and psychological/psychiatric treatment. In addition, 85 percent offered vocational programs, 50 percent offered college courses, 81 percent offered AIDS prevention counseling, and 84 percent offered health/nutrition programs. Only 56 percent offered substance abuse treatment, 26 percent offered sex offender treatment, and 40 percent offered youth violent offender treatment.

Health services offered to youthful offenders were also fairly consistent. All respondents offered initial health screenings conducted by licensed personnel. Doctors, nurses, nurse practitioners, and mental health personnel were available in most systems on a daily basis.

Facility Survey Findings

Actual confinement conditions represent critical issues for both correctional managers and youth advocates. To better understand the conditions under which youthful offenders are being incarcerated, this section examines data from surveys of adult facilities that housed youthful offenders.

Every state and local correctional system participating in the survey was sent separate surveys for each facility under its jurisdiction that housed youthful offenders. In total, data were collected from 196 adult institutions that housed youthful offenders. However, 15 of these surveys were excluded from the final analysis because they were returned with significant amounts of missing information.

Of the 181 adult facilities that responded to the survey, 148, or 82 percent, were adult prisons (table 11). The majority of these institutions, 74 percent, were either medium- or maximum-security institutions. The predominance of higher security facilities appears to be associated with the offense profile of this population, which, as noted earlier, was heavily weighted toward serious violent offenses. Forty-two percent of the institutions were located in small cities, suburbs, or rural areas, following the typical profile of adult prisons. Only 11 percent were located in large cities.

Of the facilities that responded to the survey, only 13 percent maintained separate facilities or units for youthful offenders. By far the more common practice appeared to be that no differentiation was made between adult and juvenile housing units. This finding is perhaps not surprising when viewed in the context of the rationales for moving youth to adult correctional facilities—the increasing severity of their crimes, the failure of rehabilitation, and the difficulty experienced in managing their behavior.

The age of the facilities housing youthful offenders ranged from new to 163 years old. More than 25 percent of the facilities were opened before

1965. Another 50 percent were opened between 1965 and 1987. The remaining 25 percent have been open since 1987. The median age of these facilities was 20 years.

Table 11 Characteristics of Correctional Facilities Responding to Facility Survey

Facility Type	Number	Percentage
Jail	17	9%
Prison	148	82
Reception Center	8	4
Special Treatment	5	3
Community Correction Center	2	1
Electronic Detention	1	1
Total	**181**	**100**
Security Designation		
Maximum	49	27%
Medium	85	47
Minimum	25	14
Close	6	3
Not Reported	16	9
Total	**181**	**100**
Location		
Large Urban	20	11%
Small Urban	34	19
Suburban	9	5
Rural	32	18
Not Reported	86	48
Total	**181**	**100**
Separate Youthful Offender Housing		
Yes	24	13%
No	74	41
Not Reported	83	46
Total	**181**	**100**

Consistent with the operating practices of most adult correctional facilities, 98 percent of the facilities surveyed did not permit community access for youthful offenders. This situation reflects the predominance of medium- and maximum-security prisons in the survey and may be more indicative of the serious nature of the offenses for which these youth have been incarcerated than of a lack of appropriate programming for youthful offenders. Lack of community access may also result from the largely rural locations of many adult correctional facilities.

Summary

The housing of juveniles in adult facilities is more frequent than ever before. Most state adult correctional systems house youthful offenders. Of the 54 jurisdictions responding (50 prisons and 4 jails), 87 percent housed incarcerated juveniles. In terms of their status while incarcerated, 96 percent of the reported youthful offender population fell into two categories: 23 percent were held as adjudicated juvenile offenders or pretrial detainees (mostly in the jails that responded to the survey) and 77 percent were sentenced as adults and housed in state prisons.

Juveniles constitute an extremely small proportion of offenders in the nation's prison system. At the time of this survey, there were 1,069,244 inmates in state prisons but only 4,775, (or 0.5 percent) were under age 18.

Respondents reported 13,876 youthful offender admissions to adult correctional facilities in 1997. The total average female youthful offender population for all reporting systems was only 843 offenders (table 9).

The age distribution of the youthful offender population was heavily skewed toward 17-year-olds. Approximately 78 percent of the reported youthful offender population was age 17, with another 18 percent in the 16-year-old category.

Youthful offenders are housed primarily in medium- or maximum-security facilities. Of the institutions surveyed, 42 percent were located in small cities, suburbs, or rural areas, again following the typical profile of adult prisons. Only 11 percent were located in the large cities. Of the facilities that responded to the survey, only 13 percent maintained separate facilities or units for youthful offenders. The more common practice appears to be that no differentiation is made in housing for youthful offenders in adult facilities.

Management Issues

Introduction

The presence of youthful offenders in facilities designed and operated for adult offenders creates issues for correctional administrators. The strategies for addressing these issues vary widely among states, depending on the system for committing youth to adult correctional facilities, the nature of the facilities utilized, and the experience of the staff dealing with youthful offenders. To better assess the issues facing correctional administrators and the management strategies currently in place, the project team visited several states with adult prisons and jails that house juveniles.

Table 12 presents summary data on the institutions that participated in this review. Sites were selected based on their distinct programs and the number of youthful offenders incarcerated in the adult facilities. One cannot assume that the facilities visited are typical of all adult facilities (jails and prisons) holding youthful inmates. The objective was to visit several facilities to document how various correctional systems are dealing with this issue.

The project team examined several components at each site. Members focused on gaining an appreciation of the way administrators perceive the youthful offender issue and identifying the management strategies each jurisdiction has developed. The findings of the project team are summarized below for each system and facility visited.

Arizona Department of Corrections

Arizona State Prison Complex-Eyman, Florence, Arizona

Program description. The Special Management Unit (SMU) II for minors at the Arizona State Prison Complex-Eyman serves as the state's super maximum-security facility for the incarceration of offenders who represent a threat to the orderly operation of the state prison system. Youthful offenders are incarcerated in a self-contained unit within this institution, which also houses the department's death row and specialized mental health unit.

Arizona law mandates separate facilities for youthful offenders. The state maintains another 114-bed unit at Rincon for youthful offenders who are sentenced as adults. Placement in SMU results from serious disciplinary infractions at Rincon. In effect, SMU functions as a disciplinary segregation unit for the department's youthful offenders sentenced to the adult correctional facility.

Table 12 Characteristics of Facilities Selected for Site Visits

Institution	Type of Facility	Total Capacity	Youthful Offenders
Arizona State Prison Complex-Eyman; Florence, Arizona	Super maximum-security facility	752	20
Brevard Correctional Institution; Sharpes, Florida	Youthful offender facility; up to age 24; all custody levels	814	70
Florida Correctional Institution; Lowell, Florida	Female offender facility; all custody levels	711	142
Hillsborough Correctional Institution; Riverview, Florida	Youthful offender facility; up to age 24; all custody levels	272	125
Indian River Correctional Institution; Vero Beach, Florida	Youthful offender facility; up to age 21; all custody levels	292	144
St. Brides Correctional Center; Chesapeake, Virginia	Youthful offender facility; up to age 21; minimum- and medium-security offenders	570	22
Adolescent Reception and Detention Center; Rikers Island, New York	Jail	2,548	526
Rose M. Singer Center; Rikers Island, New York	Jail	1,874	35
House of Correction; Philadelphia, Pennsylvania	Jail	659	74

Constructed in 1997, SMU is a state-of-the-art super maximum-security facility. The unit is designed to hold 20 juvenile offenders and currently operates at full capacity. All functions related to the operation of the unit are provided onsite. Juveniles' movements to programs and services outside the unit are controlled by rigid schedules and physical barriers that ensure total separation from the adult population. The facility is currently under a consent decree relating to crowded living conditions, program availability, medical and mental health services, disciplinary policy, and access to legal services and mail.

Arizona uses an objective classification system to guide placement in the super-maximum custody status. The classification instrument assigns points for a variety of factors, including the nature of the offense, escape history, and misconduct while in prison. The resulting score can be reduced by remaining free of serious misconduct while at SMU and by completing specific programs, such as the GED program.

The unit functions as a typical super maximum-security facility, allowing residents limited personal property, prohibiting audiovisual equipment, and requiring residents to wear a uniform. Youth are permitted to exercise outside the cell for three 1-hour periods each week and may take three showers per week. Visits are noncontact and limited in number and duration. Inmates are shackled and escorted by officers during all movements outside the cell. The day-to-day operation of the unit is similar to the operation of typical adult, super maximum-security units, with emphasis placed on discipline and control.

Services. SMU has a well-conceived array of programs for youthful offenders. Youth must participate in and complete two of three programs, listed below.

- ☐ **Hazelden's: A Design for Living.** This substance abuse treatment program is based on the Alcohol Anonymous 12-step program. The course consists of reading short booklets and completing a test, writing an essay, or both. Successful completion of the program reduces an offender's classification points.
- ☐ **Cage Your Rage.** This anger-management program is based on techniques developed at the Saskatchewan Penitentiary in Canada and assists offenders in recognizing feelings of anger, their causes, and methods to control and modify anger. This program is mandatory for all unit residents.
- ☐ **Biblio Program.** This literacy self-help program is based on readings and essays from a list of materials. Upon completion of a reading assignment, the youth must write an essay on the material's relevance to his life.

Program participation is based on a clinical assessment of each youth's needs. The program offerings are designed to accommodate the disciplinary structure of SMU.

Youth must comply with grooming standards, attend study periods, and maintain their cells in accordance with SMU regulations. All youth are expected to participate in physical fitness, mental alertness, and recreational programs, which include word-search contests, puzzles, and fitness challenges and testing.

The facility offers a range of educational programs, including mandatory GED preparation. Residents who already have diplomas must complete a book report every 2 weeks. Vocational courses are offered, but college-level courses are not available. Each resident is afforded 3 hours each day to attend classes. Instruction is provided in an area with adjacent study cells facing a common instruction area. In this manner, instruction can be provided on a face-to-face basis with group interaction, while maintaining a high degree of security. Instruction is enhanced with a variety of sophisticated instructional aids, and each study cell is wired for video and audio instructional systems controlled by the instructor.

This learning environment results in a positive atmosphere. Class participation is high, and residents seem to value the program and appear motivated to achieve their educational goals. Because educational programs provide one of the few opportunities that youth have for out-of-cell time and interaction, great significance is attached to participation in them.

Medical staff, including doctors, nurses, and mental health professionals, are available daily. Youth with serious mental health issues are not eligible for the program. There are no facilities in SMU for intensive mental health services, and sight and separation issues make using the larger facility's mental health unit problematic. On the day of the site visit, 20 percent of the residents were receiving mental health treatment. Despite the prevalence of mental health issues in adult super maximum facilities, SMU staff did not indicate any special mental health needs for the youthful offender population. The relatively low level of serious mental health issues may be attributable to careful screening of candidates for the unit. A review of files did not reveal any indicators of serious mental health issues (e.g., suicide attempts) and showed that mental health services were routinely being provided.

Offender profiles. Of the 20 youth housed in SMU II, more than half were sentenced to prison for violent crimes, including 7 sentenced for serious property offenses. The main reason for their placement in SMU II was typically a serious infraction of department rules involving an assault on staff or on other inmates or gang activity. Half of the residents were Hispanic, six were black, and four were white. Sixteen of the residents were 17 years old, three were 16 years old, and one was 15, the youngest resident ever housed at the facility. The longest period of commitment to SMU was 13 months, and the minimum stay was 6 months.

A review of a sample of the case files of unit residents confirmed that most had a history of violent offenses. The following cases are representative of the backgrounds of youth incarcerated at SMU:

☐ Offender one was a 15-year-old serving a minimum of 5 years for assault and possession of a weapon for his involvement in a gang-related, drive-by shooting. His background showed no prior juvenile or adult criminal record but indicated a history of alcohol and substance abuse. He had completed the ninth grade. His placement at SMU II was the result of an assault on staff.

☐ Offender two was a 16-year-old serving a minimum of 8 years for armed robbery. At the time of this offense, he was on adult probation for other offenses. He has an extensive juvenile record, including several convictions for weapons-related charges. He was transferred to SMU II for multiple incidents, including inciting a riot, creating a work stoppage, and participating in an institutional disturbance.

☐ Offender three was a 16-year-old serving a minimum of 5 years for aggravated assault. The offense occurred during his participation in a drive-by shooting. His background indicated a history of alcohol and drug abuse that began at age 12. Prior to his latest arrest, he had more than 20 arrests as a juvenile for a variety of offenses. He was transferred to SMU II for multiple episodes of misconduct, none of which involved violent behavior.

☐ Offender four was a 16-year-old serving a minimum of 3.5 years for possession of a stolen vehicle, assault, and aggravated assault. His background indicated 10 prior juvenile arrests and 3 prior dispositions in adult court. He was transferred to SMU II for threatening an employee and other episodes of misconduct.

☐ Offender five was a 16-year-old serving a minimum of 10 years for attempted murder committed during a gang-related, drive-by shooting. His background indicated no previous criminal record but showed extensive alcohol and drug abuse. He was transferred to SMU II for assault.

☐ Offender six was a 16-year-old serving a minimum of 18 years for manslaughter. His record showed prior juvenile dispositions. He was transferred to SMU II for assaulting staff.

Arizona laws are flexible in their criteria for the transfer of a juvenile to adult court. Because of this flexibility, the youthful offender population has committed a wide range of offenses. Most of the offenses described in the case files are serious, but several would not qualify for transfer in other states. Four of the six offenders received a sentence for a lesser offense resulting from a plea bargain.

Alcohol and drug use as well as gang involvement were frequently noted in the offender's background. Most surprising was the absence of any prior criminal record for two offenders. A variety of disciplinary infractions had resulted in placement at SMU II.

General observations. SMU II appears to be the only institution in the United States that provides a super maximum-security environment for youthful offenders. However, this level of security is more a function of the way Arizona has chosen to manage and provide programs for this population than a reflection of the nature of the offenders. Although violent and disruptive, the offenders housed in SMU II are not significantly different from the juvenile offenders found in the segregation units of most maximum-security juvenile correctional facilities across the country. SMU II's innovative approach to programming for these difficult-to-manage youth is unique. The juvenile unit at SMU II functions as a controlled setting for the delivery of services to juveniles who have been disruptive to the general facility population.

Within the tightly controlled context of a super maximum-security facility, SMU II staff have developed programs that complement the facility security. Staff use the control aspects of the environment to increase incentives to participate in educational and treatment programs. The program offerings are well developed, are specific to population needs, and have written criteria to evaluate progress and performance. Moreover, the offenders' progress through these programs is connected to the reclassification of the offender back to the general population. The concerns that might be expressed about the impact of a maximum-security environment on youth appear to be substantially mitigated by the quality of the programs offered at the facility and the incentives for offenders to use these offerings productively. The enhanced control and discipline of SMU II may provide the degree of structure required to successfully control and provide program services for certain types of youthful offenders.

Florida Department of Corrections

Brevard Correctional Institution, Sharpes, Florida

Florida Correctional Institution, Lowell, Florida

Hillsborough Correctional Institution, Riverview, Florida

Indian River Correctional Institution, Vero Beach, Florida

Program descriptions. The state of Florida operates a youthful offender program for inmates up to age 24 who have received an adult sentence and have been committed to the Department of Corrections. Offenders in this age group with an adult sentence of less than 10 years are eligible for the program. Offenders under the age of 24 who have been convicted of murder or who are serving life sentences are not eligible for the program. Florida law also permits juvenile court judges to certify individuals meeting these criteria into the program. The department can also designate individuals for placement into the program.

The vast majority of youthful offenders in Florida, age 17 or younger, are participating in the youthful offender program. Exceptions are those youth who have been decertified from the program and transferred to adult correctional facilities. These decertifications are generally for disciplinary reasons. Decertifications have also been made to create space for new admissions to the program. Statutes allow the department to recommend sentence reductions to the court for youth who have completed the program and appear ready for reintegration into society. Several facilities report making recommendations for sentence reductions to the department's central office, but to date, none of these recommendations have been forwarded to the court.

The department designates specific institutions to house the youthful offender program to insulate participants from the general adult prison population. These youthful offender facilities are further categorized by the typical age of their residents. Facilities are designated for two populations: (1) youth between ages 13 and 18 and (2) youth between ages 19 and 24. In practice, however, both types of youthful offender facilities house significant numbers of offenders of all ages. These facilities house youthful offenders with the full range of custody classifications, which include minimum, medium, and close management classes. Staff at these facilities must undergo a 40-hour training program on managing youthful offenders.

Services. Three youthful offender institutions were visited: Brevard, Hillsborough, and Indian River Correctional Institutions. The team also visited the Florida Correctional Institution, an institution for adult female offenders that manages a small youthful offender program. The programs at each facility were similar and are described below.

Central to all four facilities is the Extended Day Program. This program uses a quasi-boot camp structure emphasizing constant activity to keep residents productively occupied in exercise activities, classes, or work detail throughout the day. Programming begins at 5:30 a.m. with military drill and exercise. School programs operate from 8 a.m. to 8 p.m. weekdays, with other scheduled program activities on weekends. The program operates in a regimented, military atmosphere. Residents are required to ask staff permission to pass by, to stand at attention in the presence of ranked staff, and to use "Yes sir" and "No sir" when speaking. The program uses a ranking system, signified by the color of hat the inmate is required to wear, for access to privileges such as telephone use, commissary access, and visitation rights. Advancement through these ranks is based on good conduct and satisfactory progress in the program.

The premise of the Extended Day Program is that youthful offenders are volatile and impulsive, so more intensive levels of activity are required to manage their behavior. Essentially, the program tries to wear down offenders physically so that they have neither the time nor the energy to engage in misconduct. A high level of activity and structure creates a more receptive attitude toward programming, particularly educational programming. Resistant youth are faced with the prospect of transfer to an adult correctional facility.

Florida's youthful offender facilities offer standard GED programs, special education services, and vocational training. The facilities also offer medical and mental health treatment services, including therapeutic units for drug and alcohol abuse. In assessing program needs, staff identified a need for a violence interruption program and a life-skills program to assist residents in reintegrating into society.

Florida has attempted to separate youthful offenders from the adult population by dedicating facilities for the youthful offender program. However, the state's definition of a youthful offender, essentially any offender between the ages of 13 and 24, is broad. Within the youthful offender facilities, attempts are made to further separate offenders by age and type of offense, but program activities generally mix program residents of all ages. The department modifies the Extended Day Program for very young offenders.

Because of their small number, female youthful offenders are incarcerated with adults at the Florida Correctional Institution. The youthful offenders at this facility are housed in a dormitory separate from the adult population. Although they participate in the Extended Day Program, youthful offenders are mixed with the facility's adult population for all other programs and services.

Offender profiles. File reviews of youth incarcerated at these facilities were consistent with the data collected by the surveys. The majority of youthful offenders held in Florida correctional facilities have a history of serious violent offenses, with a smaller number having lengthy criminal records for property, weapons, and drug-related offenses. In many cases, the offense for which they were sentenced had been plea-bargained from a more serious criminal offense. Among the four facilities visited, approximately 50 percent of the resident population were committed for serious violent offenses such as murder, rape, or aggravated assault. The remainder of the population was composed of serial property offenders, many with a record of violent criminal activity.

The Florida Youthful Offender Program includes offenders up to age 24, but in the facilities visited, the majority of the offenders were either 16 or 17 years old. A small number of 14- and 15-year-olds were also noted in each facility. The average length of stay in the facilities was 17 months. However, this figure does not differentiate between offenders released from the correctional system and offenders transferred to adult facilities to serve out the balance of their sentences. The ethnic composition of the population at the facilities was similar to the racial breakdown of the larger Florida correctional system, with 55 percent being African American.

Staff reported significant frustration in dealing with the youthful offender population, describing them as "impulsive" and "much more difficult to manage" than adult offenders. Moreover, the unpredictable behavior of the 16- and 17-year-old population seemed to spread to the older residents, influencing their behavior. Although the department has developed a standard 40-hour youthful offender training program to equip staff with skills to manage these youth, staff report that the training curriculum needs to be updated to better reflect the type of problems they must face.

One frequently mentioned issue was that Florida's reduction of gain-time eligibility, in conjunction with the advent of truth in sentencing, severely reduced incentives for good behavior among the population. With a diminished ability to reward good behavior in a tangible fashion, staff have not yet discovered a meaningful substitute to promote compliance with institutional rules. As a result, property damage, for example, is a major problem at the Hillsborough Correctional Institution, where supervision is complicated by the poor design of the facility.

An interesting observation made by staff at several facilities was that the recent increase in the capacity of the Florida Youth Agency has taken substantial pressure off the adult correctional system. In the past, the small capacity of the Florida juvenile correctional system created pressure on the courts to transfer youthful offenders to the adult correctional system. This trend is now beginning to reverse, and many youth, particularly less serious offenders traditionally sent to the adult correctional system, are now being incarcerated in the juvenile system.

The most notable facility visited was the Indian River Correctional Institution. This facility was distinguished by a strong staff commitment to encourage rehabilitation and to create opportunities for positive change. While the facility's mission and program structure were similar to those of the other youthful offender facilities, the staff at Indian River were exceptional in their dedication to service and their realistic, but positive, view of their ability to change the inmates' lives. Cynicism and staff burnout, characteristics of corrections professionals working with youthful offenders, were not evident.

The facility is unique in several ways. A volunteer services program in 1997 attracted more than 2,000 volunteers to provide services to residents of the facility. The community of Indian River gives between $12,000 and $15,000 each year to the institution to provide items and services not funded by the state's budget. Also unique to the facility is its orientation program, during which department heads personally list the rules and describe opportunities available to newly arrived residents. This esprit de corps and the positive impact of this programming were evident in the orderly appearance and operation of the institution.

General observations. The Florida Department of Corrections has taken a proactive stance in developing a comprehensive approach to the incarceration of young offenders. In its designated youthful offender facilities, the department offers standard educational and treatment programs, as well as the Extended Day Program that seeks to address the energy level, aggression, and impulsiveness of youthful offenders. Although administrators attempt to distinguish between very young offenders and young adults in housing assignments, no provisions are made to provide developmentally appropriate programming specific to the needs of 14- to 17-year-olds. Given the unique issues and needs of adolescents, the Florida program may compromise its effectiveness by targeting too broad an age group.

Virginia Department of Corrections

St. Brides Correctional Center, Chesapeake, Virginia

Program description. In September 1990, the Virginia Department of Corrections designated St. Brides Correctional Center as the housing facility for the Youthful Offender Program (YOP). The purpose of the program is to provide judges with the option of assigning youthful offenders who have received an indeterminate sentence to a facility with an intensive, therapeutic environment.

St. Brides Correctional Center shares a 180-acre site in Chesapeake, Virginia, with the Indian Creek Correctional Center. The institution is a security level II (medium-security) facility with a total bed capacity of 570. Twelve of the beds located in housing unit B are allotted for participants who are being evaluated for admission to YOP, which has a capacity of 65 beds. Only individuals who were under 21 at the time of their offense are eligible for the program. All inmates assigned to the program are housed in single cells in housing unit D, which contains no adult offenders. However, inmates assigned to the unit participate in work activity and educational programs with inmates from the general population.

The Code of Virginia permits individuals convicted of felonies to serve a 60-day evaluation at St. Brides to determine their suitability for YOP. To be eligible for evaluation, the offender

- ☐ Must not have a prior adult felony conviction.
- ☐ Must not have been convicted for an offense involving a firearm.
- ☐ Must not have been convicted of a Class I felony, a misdemeanor involving injury to a person, or a crime involving damage to or destruction of property.
- ☐ Must have been over the age of 16 and under the age of 21 when the crime was committed.
- ☐ Must have had a judge determine that the offender was reasonably capable of rehabilitation.

Once admitted to St. Brides for assessment, inmates are required to adhere to a strict regime of rules and regulations. The inmate's level of cooperation is reported to the sentencing court and affects the determination for placement in YOP. These regulations include personal hygiene, participation in work programs, compliance with smoke-free policies, compliance with all established institutional rules and regulations, and agreement through a signed contract to maintain an acceptable level of program performance.

During the assessment period, inmates are required to participate in the following programs:

- ☐ Weekly discussion groups conducted by staff counselors.
- ☐ Weekly substance abuse education sessions.
- ☐ Viewing of television programs and videos on issues relevant to their successful return to society.

Upon arrival, each inmate is assigned to a counselor who completes the initial forms, including a social history assessment. The facility also requests a presentence investigation report from the sentencing court's probation staff. These materials are forwarded to the assessment committee, chaired by the assistant warden of programs. Committee members include the treatment program supervisor, the senior psychologist, program counselors, a clinical social worker, a representative from the school programs, a representative from the security staff, and a representative from the Virginia Parole Board.

When the assessment is completed, the sentencing court is advised of the committee's recommendation and the offender is returned to the sentencing county to await a decision. If approved and sentenced to YOP, the inmate is returned to St. Brides.

YOP participants may be terminated from the program through a due process hearing conducted by the Institutional Classification Committee. Termination can be recommended in response to intractable behavior, such as repeated violations of facility rules, refusal to participate in mandated programs, and engaging in activities or behavior that is disruptive to others in the program. The inmate may also request termination. If approved for removal from the program, the inmate is sent to another corrections facility for completion of sentence. If the inmate remains in the program, the parole board monitors his progress and he remains under its jurisdiction until release.

Services. All inmates admitted to YOP are required to attend a full range of academic and vocational programs. Vocational courses include electronics, auto mechanics, sheet metal, carpentry, plumbing, auto body repair, printing, and other apprenticeship programs.

Individual treatment plans are developed based on the inmate's history and current needs. Available programs include substance abuse education, counseling and support groups, Alcoholics Anonymous, sex offender treatment, anger management, and life-skills development. Each inmate participates in a weekly "issues discussion group," conducted by treatment staff and peer leaders. Standard medical and mental health services are available to participants in the program.

Offender profiles. One-third of the YOP's 22-bed capacity is for offenders under age 18. Seventeen-year-olds make up the largest component of the program's participants at 72 percent, with the remaining 18 percent being 16-year-olds. The racial composition of the program's participants is similar to the department's overall prison population; 72 percent of inmates are black and 18 percent are white. As with youthful offender programs in other states, participants in YOP tend to be violent offenders. More than 68 percent of the state's youthful offenders are being held for serious violent crimes.

General observations. The Virginia Department of Corrections recognizes the special issues and circumstances that surround the incarceration of youthful offenders. Particularly noteworthy in Virginia is the special attention given to screening potential program participants to ensure that services provided will fit the needs of the offender. The most effective attribute of the program may be its unique approach to offering an indeterminate sentence within a relatively rigid, determinate sentencing structure. The option of tying time served and productive participation together in well-structured therapeutic, educational, and rehabilitative programs offers a powerful incentive for offenders to change their attitudes and behavior. The indeterminate length of participation in the program, in conjunction with the use of individual treatment plans, explicitly recognizes the differing needs of individual offenders in the program. Virginia's approach to the incarceration of youth appears to reinstate rehabilitation as a priority for youthful offenders.

New York City Department of Corrections

Adolescent Reception and Detention Center and Rose M. Singer Center, Rikers Island, New York

Program descriptions. Youthful offenders in the New York City Department of Corrections have been remanded to the department's custody by judicial action, at both pre- and postadjudication stages. The youthful offender population includes defendants awaiting trial, persons convicted of a crime and sentenced to 1 year or less, parole and probation violators, and persons sentenced to more than 1 year who are awaiting transfer to the New York state prison system. Currently, the department houses 526 offenders between the ages of 15 and 17.

In 1980, a state law reduced the age of criminal responsibility from 18 to 16. Anyone charged with any offense who has reached his or her 16th birthday is processed through law enforcement, the courts, and corrections as an adult. Recognizing the special needs of this population, the department established the Adolescent Reception and Detention Center (ARDC) at Rikers Island in East Elmhurst, New York, to hold young male adults, 16 to 18 years old. Today, most incarcerated youthful offenders are held in ARDC.

ARDC houses adolescent male detainees ages 16 to 18 and has a capacity of 2,548 inmates. Juveniles under age 16 who are charged as adults (labeled juvenile offenders, or JOs in New York) are held at Spofford, the city's juvenile detention facility. ARDC houses inmates in modular dormitories, "sprung" structures (rigid frame tents capable of housing 40 or more inmates), and cells. Female youthful offenders are held at the Rose M. Singer Center, which houses one of the nation's few prison nurseries, with a capacity for 25 infants.

Services. The responsibility for the education of incarcerated juveniles is assumed by the New York City Board of Education. Teachers from the city system provide classroom instruction in the morning and early afternoon, with classes ending at 2 p.m. All juveniles age 17 and under must attend; for 18-year-olds school is optional. As a result of a very structured communications process between the principal of the Rikers education program and other city schools, released offenders may reenroll in the city's public educational system without curriculum adjustment or remedial needs that might result from their detention and concomitant absence from their local schools. The dedication of the teachers and principal at ARDC was impressive and indicative of the quality of the educational program at the facility. The rapport between security staff and the teachers was also positive.

The facility has drug treatment resources available to adolescents, provided through a contract that serves all Rikers Island facilities. Mental health services are also available to juveniles, including group, individual, and family counseling, in addition to regular social services. Inmates also have access to an up-to-date law library and support staff. The facility boasts an impressive computer lab, with state-of-the-art equipment and a trained computer teacher. Religious services are available, along with a limited mentor program.

The most striking component of ARDC, however, was not a specific program but rather was a broader environmental issue: safety. The warden and staff talked about department efforts to reduce the level of incidents between inmates, as well as those between inmates and staff. According to staff, inmate-on-inmate assaults have been reduced as a result of several key factors. Administrators have established a zero-tolerance policy for violence and possession of weapons. Prosecutors vigorously pursue extended sentences for offenders who have committed violent acts within the jail. In addition, the command staff at the jail have placed a high priority on improving intelligence on gang-related activities and plans.

To aid officers in identifying potential sources of trouble, inmates who violate institutional rules must wear special identification badges. To enhance the institution's capacity to respond to serious incidents, the facility's emergency services unit (tactical response team) has been expanded to 100 full-time employees. The administrative staff place a high priority on communication with the offender population, and meetings are held regularly between an elected inmate council and the warden and his senior staff. The result of these efforts is a higher level of safety within the facility, which encourages the pursuit of educational and programmatic opportunities.

The leadership of the facility appears committed to meeting the educational, social, vocational, and recreational needs of youthful offenders held at the facility. The warden emphasizes that the qualified staff have a profound impact on the success of any attempts at innovation. Projects are being pushed forward to address the physical plant needs of the department and areas conducive to rehabilitating youthful offenders. All new correctional staff are required to have earned at least 64 postsecondary credit hours; extensive background investigations are a prerequisite for new employees.

The New York system is currently under court order relating to crowding, fire safety, staffing, program availability, recreation, mental health programs, food service, medical services, visitation policies, and the physical condition of the facilities.

Offender profiles. Currently, 561 youthful offenders are held by the New York City Department of Corrections. Approximately 53 percent of the youthful offender population is being held for a serious violent offense, 23 percent for a drug-related offense, 11 percent for a property offense, and 13 percent for other nonviolent offenses. In terms of race/ethnicity, the youthful offender population in the New York City system has a somewhat higher proportion of black offenders than the adult jail population. More than 67 percent of youth held in the jail are black, 29 percent are Hispanic, and 4 percent are white. By contrast, the adult population is 58 percent black, 37 percent Hispanic, and 5 percent white. Sixty-five percent of the youthful offender population is 17 years of age, and 35 percent is age 16.

General observations. The age of criminal responsibility in New York is 16, meaning that 16- and 17-year-olds are automatically processed through the courts as adults. Despite their legal status as adults, the New York City Department of Corrections has recognized the special needs of youthful offenders and has established a separate facility and separate programs to serve this population. The most impressive aspect of youthful offender programming in the jail system was the articulated expectation that the warden, senior managers, officers, and nonsworn personnel should function as "change agents" for the youthful offender population at ARDC. These staff understand the need for a continuum of services for youthful offenders, which extends into the community and involves family members or positive authority figures.

The recent initiative to improve the qualification standards for staff is a positive step toward realizing this expectation. Staff should be offered opportunities to participate in professional training seminars and symposiums to further enhance their professional knowledge. Also significant is the department's commitment to enhancing the safety of staff and residents through a variety of measures designed to improve rule enforcement, intelligence, and communication between the administration and residents.

Underlying the department's strategy to manage the issues associated with youthful offenders is its performance- and accountability-based approach to management, the Total Efficiency Accountability Management System (TEAMS). This system stresses management responsibility for program quality and operating effectiveness and has improved conditions throughout the jail. The commitment of senior staff to achieving the goals identified for the department's youthful offender program reflects the TEAMS philosophy.

Philadelphia Department of Corrections

House of Correction, Philadelphia, Pennsylvania

Program description. In Philadelphia, certain juveniles charged with serious felonies may be tried in the adult court system. Until recently, the number of juveniles charged as adults was relatively small, which was not a reflection of the number of serious felony offenders in Philadelphia, but was instead indicative of the intricacies of the waiver process required before a juvenile could be charged as an adult. Juveniles charged with serious offenses were first processed in the juvenile system, where a judicial officer would hold a waiver hearing to determine if the best interests of society and the juvenile would be served by trying the juvenile in the adult system.

In recent years, the procedure for transferring a juvenile to adult court has changed. Today, in addition to the waiver procedure, certain charges are "direct filed," meaning the charging decision by the prosecutor dictates whether the juvenile will be tried in the adult system.

Currently, all arrested and detained youthful offenders are first transported to the Youth Study Center, a multistory facility in downtown Philadelphia that functions as the central intake for all juveniles. The majority of the juveniles held are under the control and supervision of the Human Services Department, and the fifth floor of the facility is a closed-custody ward used only to hold juveniles charged as adults, or "certified" juveniles. The ward can accommodate up to 37 youthful offenders.

When that facility is filled to capacity, youthful offenders are transferred to the C-2 or A-2 block of the House of Correction (HOC), one of the main jail institutions in the Philadelphia system housing predominantly adult male detainees. Together, the two blocks have an average daily population of approximately 60 juveniles. The units are physically separate from the main population and every effort is made to prevent any contact between adult inmates and juvenile offenders, including locking down the adult population when the juvenile population is being moved for meals or exercise. Once a juvenile is transferred to HOC, he is quarantined in a single cell for 72 hours (or longer, if on a weekend or holiday). During this time, the juvenile is screened for educational needs and mental health issues and undergoes a diagnostic interview with a social worker. Owing to time constraints, these tasks are not always completed within the prescribed timeframe.

Services. The model for all programs and procedures involving juveniles charged as adults in the Philadelphia system is the Game of Life Development (GOLD) program. The objective of the GOLD program is to develop a "positive-norm therapeutic community for youthful offenders." Participation in the program is mandatory. Each youth receives an individual prescriptive plan for program participation, which is reviewed periodically during the youth's residence.

The program establishes five levels of privileges and responsibilities. All residents begin at level one; when they satisfactorily complete one level they advancement to the next. Privileges associated with the different levels include access to radios, televisions, games, cards, and paying jobs.

Each day, the program calls for 2 hours of off-unit structured recreational activity and 1 hour of on-unit recreational activity to provide an outlet for the high energy levels associated with youthful offenders. Group therapy sessions cover such topics as anger management, stress management, conflict resolution, the psychology of achievement, communication skills, and self-esteem issues. Inmates may receive visitors for 1 hour each week.

Youthful offenders must participate in board of education-operated classes that are offered 5 days a week. Volunteers provide a number of supplementary programs. There is access to both medical and psychological treatment, as required by law.

Offender profiles. The most recent data available indicate that during 1998, 424 juveniles were charged as adults and detained in the Philadelphia prison system (in Pennsylvania, the term "prison" includes both traditional jail populations and state prison populations). The average length of stay was 211 days, reflecting the more serious charges for which the youth were held. In the same year, 28,290 inmates were received by the Philadelphia's prison system, with an average stay of 79 days.

At HOC, 91 percent of the youthful offenders were detained for a serious violent offense, and 97 percent of the detainees at the Youth Study Center had been charged with a serious violent offense. In terms of race/ethnicity, 83 percent of the youthful offenders were black, compared with 72 percent of the adult jail population. The Philadelphia jail system also held a higher number of very young offenders than was seen in other jurisdictions. At the time of the survey, the jail system held one 11-year-old, two 14-year-olds, twelve 15-year-olds, and fifteen 16-year-olds. The balance of the youthful offender population was 17 years of age.

General observations. Both of the institutions housing youthful offenders are very old (the HOC cells date back to the late 1800s) and are very small, making direct supervision of the inmates impossible. This was also true at the Youth Study Center, even though the facility is newer. Conditions in both facilities were poor. The long average length of stay for detained youth in the jail system complicates the already difficult issue of providing a rehabilitative environment in grim, dark, old facilities with little access to natural light or exercise and few formalized programs for the juveniles. While the GOLD program has admirable goals and programmatic ideals that the staff seemed to understand and support, the goals do not seem reasonable given the physical limitations and small staff. HOC is currently under court orders relating to crowding, staffing, program availability, disciplinary practices, recreational opportunities, food service, medical service, law library access, staff training, and visitation policies.

Finally, in both New York and Philadelphia, staff were sensitive to the issues of a juvenile population, but facilities seemed to be operating under conditions that could not accommodate this philosophy. The facilities did not have the level of freedom observed in many juvenile halls, but there was much more freedom than that found in the typical jail, along with a greater sense of safety. In effect, it appears that juveniles held in these two adult facilities have more programming provided than their detained adult counterparts, but less than they would receive if they had been charged with and detained in the juvenile justice system.

Major Findings

There is substantial variation in each states' approaches to dealing with youthful offenders, in terms of definition, legal status, and programming. Staff in adult correctional facilities tend to find youthful offenders more volatile and more difficult to deal with. Integrating programming with a well-designed operating philosophy, as in Arizona, appears to enhance offender acceptance and enthusiasm for programming.

Most residents of surveyed facilities had backgrounds of violence or long criminal histories or both. Diverse strategies were employed to deal with the complex constellation of needs of the youthful offender population. Some systems focused on incentives for programming, whereas others focused on the safety and security of the institution. Older facilities are often challenged to provide sophisticated programming as they are limited by the size and construction of the physical structure. The inmate population brings with it two challenges that must be addressed. First, the serious and violent offense profiles of most youthful offenders pose significant safety and security issues to the operation of the facilities. A structured environment is required to maintain the orderly operation of the facilities, but given the juveniles' status, management techniques that do not employ massive force must be used. Second, this population's significant developmental, emotional, and cognitive issues can be addressed by appropriate programming. Further, the gender-specific needs of girls in the adult correctional system deserve equal attention. The expertise of the staff in these areas appears to be a critical link to the quality of services and the orderly operation of the facility.

Alternative Strategies and Technical Assistance

This report focuses on identifying the extent and characteristics of the youthful offender populations currently incarcerated in adult facilities and on documenting their conditions of confinement. These findings suggest that the phenomenon of youthful offender incarceration in adult correctional facilities is a burgeoning issue in many correctional systems across the nation. Correctional administrators need alternative strategies to address the issues associated with managing young offenders in an adult correctional environment while responding to their unique needs with developmentally appropriate programming. The following recommendations are offered for further research and present suggested topic areas in which the Bureau of Justice Assistance and other public and private agencies should be prepared to establish standards and to provide technical assistance to correctional agencies responsible for managing this growing population.

Classification Systems

The traditional classification instruments developed for and used with adult correctional populations do not take into account the special needs or the maturation issues presented by youthful offenders. Prison classification systems have been developed and validated on adult male populations and are not sensitive to the unique attributes and behaviors of youthful populations. These classification systems consist of both external and internal models.

External classification systems are used to determine whether an inmate should be placed in the general population or assigned to a special management unit. The latter consists of protective custody, administrative segregation, mental health, and medical care units. The former results in a designation of minimum, medium, close, or maximum custody. Assessments are also made on the types of programs or treatment services the inmate should participate in. Based on the custody and program/treatment needs, a determination is made on the most appropriate facility to which to transfer the inmate.

One suggestion is for adult correctional systems either to use classification systems that have been developed by the state's juvenile correctional agency or to develop their own system to be used for youth committed to their care. Such a classification system should be capable of assessing each youth with respect to their risk to public safety, institutional conduct, and specific program needs in the areas of mental health, substance abuse, education, vocational training, and medical care.

In addition to this type of an external classification assessment, an internal classification system needs to be established for each facility that houses these youth to ensure youthful offenders are not improperly housed with adult inmates. Such an internal system would consist of a plan that limits the housing units into which a youthful offender can be placed and the types of programs in which a youthful offender can participate within that facility.

Staff and Staff Training

The need for meaningful training of adult security staff on techniques for managing youthful offenders was apparent during most of the site visits. Typically, security staff are oriented and trained to deal with adult inmates. Training should prepare staff to recognize and respond to the particular issues faced by a juvenile offender housed in an adult prison, such as the potential for victimization, the emotional effect of incarceration on younger populations, and the way in which substance abuse, education, health, and mental health needs are manifested among younger offenders. This training would be particularly useful for states that have facilities designated for youthful offenders.

Along these lines, it is recommended that adult facilities that house youthful offenders be staffed with people experienced in working in juvenile facilities. These staff are more accustomed to the nonconfrontational methods used to control youth that rely less on use of force techniques and more on peaceful conflict resolution.

Staff in adult facilities are trained to respond to disruptive and confrontational adult offenders. The use of chemical agents such as mace or pepper spray, forced cell extractions, physical restraints, and special response teams, although typically effective with adult offenders, may not be appropriate for juvenile populations. Most juvenile correctional systems discourage the use of such techniques as viable methods of controlling youth except in the most extreme situations, and even then only when lesser measures have been exhausted. Physical handling of a youth is permitted only when other measures, such a counseling and crisis intervention techniques, have failed. For such instances, officers are trained on a myriad of other measures such as empty-hand control tactics, which include various holds, leverage, pressure, self-defense measures, and pressure control techniques.

Adult facilities require assistance and training in devising such techniques that do not rely upon a massive use of force yet are effective in deescalating volatile incidents involving youthful offenders.

Programming

The surveys indicated a deficit in specialized programming for youthful offenders. In some cases, programming such as violence interruption or sex offender treatment is not available. In most others, existing programming was designed to respond to these issues as manifested in the typical adult offender and lacked a more developmentally responsive adaptation of the curricula. Although this situation may be driven by the relatively small number of juveniles in most adult facilities, the lack of appropriate programming for youth in adult facilities remains a major shortcoming in the management of these offenders.

Education

In addition to special management and programming needs, youthful offenders need educational programming that is more structured, thorough, and intensive than that provided in adult institutions. It is important to ensure that facilities are both aware of and adhering to federal mandates to provide regular and special education services to youth in their care.

Incarcerated youth are required to receive regular, special, and vocational education services in accordance with the state law for public schools, the rules and regulations of the state board of education, and the regulations of the 14th amendment of the U.S. Constitution and the Individuals With Disabilities Education Act (IDEA).

All youth should be offered an average of 5.5 hours of daily instruction, 5 days a week, by qualified teachers, in an environment that facilitates learning. Additionally, youth ought to be assigned to grade levels with curricula that are in accordance with their educational level, and they should receive academic credit for their educational achievements.

Facilities should offer GED preparation and testing to qualified prison inmates and juveniles confined in jails for at least 6 months. Youth who are in disciplinary isolation or are otherwise unable to attend school for a significant period of time must be provided with a reasonable level of education services.

Federal regulations through IDEA guarantees special education services to juveniles (up to age 21) in adult facilities as a constitutional right. Although there are no national figures on the number of special education youth who are incarcerated, it is estimated at between 30 and 50 percent require this service. A recent study by Leone and Meisel (2000) on the proportion of special education youth incarcerated in Arizona, Florida, and Maine indicates that between 42 and 60 percent of the juvenile populations are classified as special education. This estimate shows the importance of ensuring that adequate special education services are available to those juveniles who are incarcerated. Proper identification of youth with special education needs, exposure to special education curriculum, and teachers certified as special education instructors should be available to juveniles in adult prisons as well as those in juveniles facilities. Training and technical assistance programs could be developed in partnership with the U.S. Department of Education or the state's education system.

Behavior Management Techniques

The popularity of "get tough" approaches to managing offenders, particularly military models, need to be evaluated for their effectiveness for youthful offenders. Further, security staff would benefit from the development of methods to provide incentives for good behavior and for increasing the level of engagement of the youthful offender populations with the available programming. Here again, most juvenile correctional systems have implemented a variety of positive management programs that allow youth to receive increasing levels of privileges based on good behavior. Such initiatives have proved to be effective methods for managing juvenile populations. Yet, adult correctional systems rarely use or have any experience with such systems.

Housing Strategies

Many jurisdictions would benefit from an assessment of the type of housing that is most effective for managing this population. For example, the cost and benefits of separating youthful offenders from adult offenders should be examined. Given their relatively small numbers, cost-effective options for this type of separation should be developed. Because most youthful offenders are managed in dormitory facilities, the specific management issues relevant to this housing arrangement should be fully explicated.

Given that the volatility and impulsiveness that typically underlies a juvenile's presence in an adult facility can be contagious, correctional systems would benefit from technical assistance focused on strategies for mitigating these situations. Further, best practices associated with appropriate interaction between juvenile and adult offender populations would help increase institutional stability.

Continued Research

Finally, given the relative newness of this issue and the lack of knowledge surrounding the conditions, impact, and consequences of juvenile incarceration in adult facilities, additional research is required. In particular, research is needed to better understand the basis for the decision to place a youth in an adult correctional facility. We also need to learn whether placement in an adult facility has an adverse impact on the conditions of incarceration. Comparative studies are required on the provision of education and vocational services, substance abuse treatment, mental health services, and medical needs as well as protection from harm in juvenile and adult facilities. Such comparative studies will help determine the value of housing youth in adult prisons and jails. If such placements are required by law, adult facilities must know how to create appropriate program offerings and standards of care for youth placed in their care for substantial periods of time.

State Statutes That Govern the Transfer of Juveniles to the Adult Court System

Alabama

§12-15-61 (1999)

(d) A child alleged or adjudicated to be delinquent may be detained in a jail or other facility for the detention of adults for not more than 7 days pursuant to a court order and only if all of the following conditions are met: (i) the detention is approved by the official or officer in charge of the jail; (ii) the jail contains, at the time of the order, an available room in which the child can be detained separate and removed from all contact with adult inmates; and (iii) adequate supervision is available at the time detention in the jail is ordered. A child who has been transferred for criminal prosecution, or who is no longer subject to the juvenile court's jurisdiction shall be detained as an adult.

(e) Except as provided in subsection (d), the official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be a child as defined by this chapter, is received at the facility, and shall deliver the child to the court upon request or transfer him or her to a detention facility designated by the court.

Negligence

Even though county had no duty initially to provide cells for the detention of juvenile offenders in the jail used for confinement of adults, once county voluntarily undertook this duty, it thereafter was charged with the duty of acting with due care. *Keeton v. Fayette County*, 558 So. 2d 884 (Ala. 1989).

Alaska

Alaska Stat. § 47.12.240 (1999)
Detention of minors

(a) When the court commits a minor to the custody of the department, the department shall arrange to place the minor in a detention home, work camp, or another suitable place that the department designates for that purpose.

(b) Except when detention in a correctional facility is authorized by (c) of this section, the minor may not be incarcerated in a correctional facility that houses adult prisoners.

(c) Notwithstanding (a) of this section, a minor may be incarcerated in a correctional facility

(1) if the minor is the subject of a petition filed with the court under this chapter seeking adjudication of the minor as a delinquent minor or if the minor is in official detention pending the filing of that petition; however, detention in a correctional facility under this paragraph may not exceed the lesser of

(A) six (6) hours; or

(B) the time necessary to arrange the minor's transportation to a juvenile detention home or comparable facility for the detention of minors;

(2) if, in response to a petition of delinquency filed under this chapter, the court has entered an order closing the case under AS 47.12.100(a), allowing the minor to be prosecuted as an adult;

(3) if the incarceration constitutes a protective custody detention of the minor that is authorized by AS 47.37.170(b); or

(4) if the minor is at least 16 years of age and the court has entered an order under AS 47.12.160(e) imposing an adult sentence and transferring custody of the minor to the Department of Corrections.

(d) When a minor is detained under (c)(1) or (3) of this section and incarcerated in a correctional facility, the minor shall be

(1) assigned to quarters in the correctional facility that are separate from quarters used to house adult prisoners so that the minor cannot communicate with or view adults who are in official detention;

(2) provided admission, health care, hygiene, and food services and recreation and visitation opportunities separate from services and opportunities provided to adults who are in official detention.

(e) Notwithstanding the limitation on detention set out in (c)(1) of this section, a minor whose detention is authorized by (c)(1) of this section may be detained in a correctional facility for more than six (6) hours if transportation to a juvenile detention home or comparable facility for the detention of minors is not available.

Arizona

§ 8–305

[A] juvenile who is convicted in a jail or lockup in which adults are confined shall be kept in a physically separate section from any adult who is charged with or convicted of a criminal offense, and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

Arkansas

§ 9–27–336 (1997)

(2) A juvenile alleged to have committed a delinquent act may be held in an adult jail or lockup for up to six (6) hours for purposes of identification, processing, or arranging for release or transfer to an alternative facility, provided he is separated by sight and sound from adults who are pretrial detainees or convicted persons. A holding for those purposes shall be limited to the minimum time necessary and shall not include travel time for transporting the juvenile to the alternative facility; or

(3) (A) A juvenile alleged to have committed a delinquent act who is awaiting an initial appearance before a judge may be held in an adult jail or lockup for up to twenty-four (24) hours, excluding weekends and holidays, provided the following conditions exist:

(i) The alleged act would be a misdemeanor or a felony if committed by an adult or is a violation of § 5–73–119; and

(ii) The geographical area having jurisdiction over the juvenile is outside a metropolitan statistical area pursuant to the United States Bureau of the Census' current designation; and

(iii) No acceptable alternative placement for the juvenile exists; and

(iv) The juvenile is separated by sight and sound from adults who are pretrial detainees or convicted persons.

(B) (i) A juvenile awaiting an initial appearance and being held in an adult jail or lockup pursuant to the twenty-four-hour exception, as provided in subdivision (b)(3)(A) of this section, may be held for an additional period, not to exceed twenty-four (24) hours, provided that the following conditions exist:

(a) The conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within twenty-four (24) hours; and

(b) All the conditions in subdivision (b)(3)(A) of this section exist;

(ii) Criteria will be adopted by the Governor or his designee to establish what distance, highway or road conditions, or ground transportation limitations will provide a basis for holding a juvenile in an adult jail or lockup under this exception.

(c) Except as provided in subsection (e) of this section, nothing in this subchapter is intended to prohibit the use of juvenile detention facilities which are attached to or adjacent to adult jails or lockups, provided the facilities are designed and used in accordance with federal and state guidelines and restrictions.

(d) A detention facility shall not release a serious offender for a less serious offender, except by order of the judge who committed the more serious offender.

(e) Provided, however, that upon petition by the quorum court of any county, the Governor may waive the requirements of subsections (b) and (c) of this section and any other provision of state law, state jailing standards, and state regulations limiting the detention of juveniles in adult facilities, subject to the following restrictions:

(1) The authority to grant such a waiver will expire on March 31, 1997; and

(2) Such waivers may be granted only for periods of up to six (6) months, but may be renewed for successive six-month periods, provided all such waivers shall expire on March 31, 1997; and

(3) Such waivers shall be available only if a county:

(A) Is making a good faith effort to provide a juvenile detention facility that otherwise complies with state law and regulations for detaining juveniles in a juvenile detention facility and has entered into a written agreement with another county or counties for that specific purpose; or

(B) Has a juvenile detention facility located in that county, but certifies that no further bed capacity is available or will be available within a reasonable period of time, and certifies that the county will increase the bed capacity of its facility by March 31, 1997; and

(4) Such waivers shall not permit detaining juveniles in the same cell or within physical reach of adults who are pretrial detainees or convicted persons.

California

Cal Wel & Inst Code § 207.1 (1999)
Detention of minor in adult facility

(a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been charged directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:

> (1) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.
>
> (2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.
>
> (3) The minor is adequately supervised.

(c) A minor who is either found not to be a fit and proper subject to be dealt with under the juvenile court law or who will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, at the time of transfer to a court of criminal jurisdiction or at the conclusion of the fitness hearing, as the case may be, shall be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) (1) A minor fourteen (14) years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

> (A) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(B) The minor is detained in the law enforcement facility for a period that does not exceed six (6) hours except as provided in subdivision (f).

(C) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (f), the minor shall be informed of the length of time the extension is expected to last.

(D) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(E) The minor is adequately supervised.

(F) A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

(2) Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six (6) hours.

(3) "Law enforcement facility," as used in this subdivision, includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (i).

(e) The Board of Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The board shall make available and, upon request, shall provide technical assistance to each governmental agency that reported the

confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

(i) (1) (A) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

(B) A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county also shall provide a written report to the board that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of twenty-four (24) hours, the board shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility also shall provide a written report to the board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of twenty-four (24) hours, the board shall verify the information contained in the report.

(3) At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups.

(g) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

(h) No part of a building or a building complex that contains a jail may be converted or utilized as a secure juvenile facility unless all of the following criteria are met:

(1) The juvenile facility is physically, or architecturally, separate and apart from the jail or lockup such that there could be no contact between juveniles and incarcerated adults.

(2) Sharing of nonresidential program areas only occurs where there are written policies and procedures that assure that there is time-phased use of those areas that prevents contact between juveniles and incarcerated adults.

(3) The juvenile facility has a dedicated and separate staff from the jail or lockup, including management, security, and direct care staff. Staff who provide specialized services such as food, laundry, maintenance, engineering, or medical services, who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, may serve both populations.

(4) The juvenile facility complies with all applicable state and local statutory, licensing, and regulatory requirements for juvenile facilities of its type.

(i) (1) "Jail," as used in this chapter, means a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

Cal Wel & Inst Code § 208.5 (1999)
Detention of minors in juvenile facility until age 19

Notwithstanding any other provision of law, in any case in which a minor who is detained in or committed to a county institution established for the purpose of housing juveniles attains the age of 18 prior to or during the period of detention or confinement he or she may be allowed to come or remain in contact with those juveniles until the age of 19, at which time he or she, upon the recommendation of the probation officer, shall be delivered to the custody of the sheriff for the remainder of the time he or she remains in custody, unless the juvenile court orders continued detention in a juvenile facility. The person shall be advised of his or her ability to petition the court for continued detention in a juvenile facility at the time of his or her attainment of the age of 19. Notwithstanding any other provision of law, the sheriff may allow such a person to come into and remain in contact with other adults in the county jail or in any other county correctional facility in which he or she is housed.

Colorado

C.R.S. 19-2-508 (1998)
Detention and shelter, hearing, time limits, confinement with adult offenders, restrictions

(4) (a) No jail shall receive a juvenile for detention following a detention hearing pursuant to this section unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult pursuant to a transfer or unless the juvenile is to be held for criminal proceedings as an adult pursuant to a direct filing. No juvenile under the age of fourteen (14) and, except upon order of the court, no juvenile fourteen (14) years of age or older shall be detained in a jail, lockup, or other place used for the confinement of adult offenders. The exception for detention in a jail shall be used only if the juvenile is being held for criminal proceedings as an adult pursuant to a direct filing or transfer.

(b) Whenever a juvenile is held pursuant to a direct filing or transfer in a facility where adults are held, the juvenile shall be physically segregated from the adult offenders.

(c) The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court that has jurisdiction of the juvenile's alleged offense when a juvenile who is or appears to be under 18 years of age is received at the facility, except for a juvenile ordered by the court to be held for criminal proceedings as an adult.

(d) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight (48) hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. Such juvenile shall not be detained in a jail, lockup, or other place used for the confinement of adult offenders for longer than six (6) hours, and in no case overnight, for processing only, after which the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(e) The official in charge of a jail, lockup, or other facility for the confinement of adult offenders that receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang so as to prevent contact with other inmates at such jail, lockup, or other facility. The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population. For purposes of this paragraph (e), "gang" is defined in section 19-1-103 (52).

(f) Any person who is eighteen (18) years of age or older who is being detained for a delinquent act or criminal charge over which the juvenile court has jurisdiction shall be detained in the county jail in the same manner as if such person is charged as an adult.

Connecticut

Conn. Gen. Stat. § 46b–133c (1997)

(f) Whenever a proceeding has been designated a serious juvenile repeat offender prosecution and the child does not waive his right to a trial by jury, the court shall transfer the case from the docket for juvenile matters to the regular criminal docket of the Superior Court. Upon transfer, such child shall stand trial and be sentenced, if convicted, as if he were sixteen (16) years of age, except that no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youth until he attains sixteen (16) years of age or until he is sentenced, whichever occurs first.

Delaware

10 Del. C. § 1009 (1998)
Adjudication, disposition following adjudication, commitment to custody of Department of Services for Children, Youth and Their Families, effect

(2) No dependent or neglected child shall be placed in a secure detention facility or a secure correctional facility unless charged with or found to have committed a delinquent act. No child shall be placed in an adult correctional or adult detention facility.

Florida

Fla. Stat. § 951.23 (1998)
County and municipal detention facilities, definitions, administration, standards and requirements

(a) There shall be established a five-member working group consisting of three persons appointed by the Florida Sheriffs' Association and two persons appointed by the Florida Association of Counties to develop model standards for county and municipal detention facilities. By October 1, 1996, each sheriff and chief correctional officer shall adopt, at a minimum, the model standards with reference to:

> (2) The confinement of prisoners by classification and providing, whenever possible, for classifications which separate males from females, juveniles from adults.

Fla. Stat. § 985.211 (1998)
Release or delivery from custody

(5) Upon taking a child into custody, a law enforcement officer may deliver the child, for temporary custody not to exceed 6 hours, to a secure booking area of a jail or other facility intended or used for the detention of adults, for the purpose of fingerprinting or photographing the child or awaiting appropriate transport to the department or the appropriate juvenile probation officer or detention facility or center, provided no regular sight and sound contact between the child and adult inmates or trustees is permitted and the receiving facility has adequate staff to supervise and monitor the child's activities at all times.

Fla. Stat. § 985.215 (1998)
Detention

Under no circumstances shall the juvenile probation officer or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(3) Except in emergency situations, a child may not be placed into or transported in any police car or similar vehicle that at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(4) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

> (a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this part, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or
>
> (b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult. The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and

shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This paragraph does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

Georgia

§15–11–20 (1998)

(a) Allegation of delinquency. A child alleged to be delinquent may be detained only in:

(1) A licensed foster home or a home approved by the court which may be a public or private home or the home of the noncustodial parent or of a relative;

(2) A facility operated by a licensed child welfare agency; or

(3) A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court.

(b) Allegation of capital or violent offense. A child alleged to have committed an offense over which the superior court has exclusive or concurrent jurisdiction under subsection (b) of Code Section 15–11–5 shall be detained pending a commitment hearing under Code Sections 17–6–15 and 17–6–16 and Articles 1, 2, and 8 of Chapter 7 of Title 17 or an indictment only in a facility described in paragraphs (1) through (3) of subsection (a) of this Code section unless it appears to the satisfaction of the court in which the case is pending that public safety and protection reasonably require detention in the jail and the court so orders, but only where the detention is in a room separate and removed from those for adults and constructed in such a way that there can be no physical contact between a child and an adult offender.

(c) Transfer following indictment. Following an indictment for an offense over which the superior court has exclusive or concurrent jurisdiction under subsection (b) of Code Section 15–11–5 or following the transfer of a case to any court for criminal prosecution under Code Section 15–11–39, the child shall be held only in a facility described in paragraphs (1) through (3) of subsection (a) of this Code section unless it appears to the satisfaction of the superior court that public safety and protection reasonably require detention in the jail and the court so orders, but only where the detention is in a room separate and removed from those for adults and constructed in such a way that there can be no physical contact between a child and an adult offender.

(d) Notification of court by official of jail. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall immediately inform the juvenile court or a duly authorized officer of the juvenile court if a person who is or appears to be under the age of seventeen (17) years is received at the facility and shall bring him or her before the court upon request or deliver him or her to a detention or shelter care facility designated by the court; provided, however, the official in charge of a jail or other facility for the detention of adult offenders or persons charged with a crime shall immediately inform the court in which the case is pending or a duly authorized officer of such court if a person who is or appears to be thirteen (13) to seventeen (17) years of age and who is alleged to have committed any offense enumerated in subparagraph (b)(2)(A) of Code Section 15–11–5 is received at the facility and shall bring him or her before the court upon request or deliver him or her to a detention facility designated by the court. Such child shall not be held in the jail, but may be held in a temporary holding area outside of the jail constructed as such for not longer than six (6) hours pending transfer to the detention facility. For purposes of this Code Section, the term "jail" shall include not only the cells, but any other secured area of the jail adjacent to the cells in which adult offenders are held or through which they are transported.

Hawaii

HRS § 571-32 (1999)
Detention, shelter, release, notice

(d) …If there is probable cause to believe that the child comes within section 571–11(1), the child may be securely detained in a certified police station cell block or community correctional center. The detention shall be limited to six (6) hours. In areas which are outside a standard metropolitan statistical area, the detention may be up to twenty-four (24) hours, excluding weekends and holidays, if no detention facility for juveniles is reasonably available. Any detention in a police station cell block or community correctional center shall provide for the sight and sound separation of the child from adult offenders.

(i) The official in charge of a facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child who is or appears to be under eighteen (18) years of age is received at the facility.

(j) Any other provision of law to the contrary notwithstanding, any person otherwise subject to proceedings under chapter 832 and who is under the age of eighteen (18) may be confined in a detention facility or correctional facility by order of a judge for the purposes set forth in section 832–12, 832–15, or 832–17.

(k) The department of human services through the office of youth services shall certify police station cell blocks and community correctional centers that provide sight and sound separation between children and adults in secure custody. Only cell blocks and centers certified under this subsection shall be authorized to detain juveniles. The office of youth services may develop sight and sound separation standards, issue certifications, monitor and inspect facilities for compliance, cite facilities for violations, withdraw certifications, and require certified facilities to submit such data and information as requested. In addition, the office of youth services may monitor and inspect all cell blocks and centers for compliance.

Idaho

§ 20–509 (1998)

(2) Once a juvenile has been formally charged or indicted according to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of sec. 2–508, Idaho Code, or this section, the juvenile shall be held in a county jail or adult prison facility unless the court, after finding good cause, orders otherwise.

Illinois

§ 705 ILCS 405/5–410
Non-secure custody or detention

(1) Any minor arrested or taken into custody pursuant to this Act who requires care away from his or her home but who does not require physical restriction shall be given temporary care in a foster family home or other shelter facility designated by the court.

(2) (a) Any minor 10 years of age or older arrested pursuant to this Act where there is probable cause to believe that the minor is a delinquent minor and that (i) secured custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another, (ii) the minor is likely to flee the jurisdiction of the court, or (iii) the minor was taken into custody under a warrant, may be kept or detained in an authorized detention facility. No minor under 12 years of age shall be detained in a county jail or a municipal lockup for more than 6 hours.

(b) The written authorization of the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) constitutes authority for the superintendent of any juvenile detention home to detain and keep a minor for up to 40 hours, excluding Saturdays, Sundays, and court-designated holidays. These records shall be available to the same persons and pursuant to the same conditions as are law enforcement records as provided in Section 5-905 [705 ILCS 405/5-905].

(b-4) The consultation required by subsection (b-5) shall not be applicable if the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) utilizes a scorable detention screening instrument, which has been developed with input by the State's Attorney, to determine whether a minor should be detained, however, subsection (b-5) shall still be applicable where no such screening instrument is used or where the probation officer, detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) deviates from the screening instrument.

(b-5) Subject to the provisions of subsection (b-4), if a probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) does not intend to detain a minor for an offense which constitutes one of the following offenses he or she shall consult with the State's Attorney's Office prior to the release of the minor: first degree murder, second degree murder, involuntary manslaughter, criminal sexual assault, aggravated criminal sexual assault, aggravated battery with a firearm, aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm, robbery, aggravated robbery, armed robbery, vehicular hijacking, aggravated vehicular hijacking, vehicular invasion, arson, aggravated arson, kidnaping, aggravated kidnaping, home invasion, burglary, or residential burglary.

(c) Except as otherwise provided in paragraph (a), (d), or (e), no minor shall be detained in a county jail or municipal lockup for more than 12 hours, unless the offense is a crime of violence in which case the minor may be detained up to 24 hours. For the purpose of this paragraph, "crime of violence" has the meaning ascribed to it in Section 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10].

(i) The period of detention is deemed to have begun once the minor has been placed in a locked room or cell or handcuffed to a stationary object in a building housing a county jail or municipal lockup. Time spent transporting a minor is not considered to be time in detention or secure custody.

(ii) Any minor so confined shall be under periodic supervision and shall not be permitted to come into or remain in contact with adults in custody in the building.

(iii) Upon placement in secure custody in a jail or lockup, the minor shall be informed of the purpose of the detention, the time it is expected to last, and the fact that it cannot exceed the time specified under this Act.

(iv) A log shall be kept which shows the offense which is the basis for the detention, the reasons and circumstances for the decision to detain, and the length of time the minor was in detention.

(v) Violation of the time limit on detention in a county jail or municipal lockup shall not, in and of itself, render inadmissible evidence obtained as a result of the violation of this time limit. Minors under seventeen (17) years of age shall be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to criminal law. Persons seventeen (17) years of age and older who have a petition of delinquency filed against them shall be confined in an adult detention facility.

(d) (i) If a minor twelve (12) years of age or older is confined in a county jail in a county with a population below 3,000,000 inhabitants, then the minor's confinement shall be implemented in such a manner that there will be no contact by sight, sound, or otherwise between the minor and adult prisoners. Minors twelve (12) years of age or older must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with confined adults. This paragraph (d)(I) shall only apply to confinement pending an adjudicatory hearing and shall not exceed 40 hours, excluding Saturdays, Sundays, and court-designated holidays. To accept or hold minors during this time period, county jails shall comply with all monitoring standards promulgated by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(ii) To accept or hold minors, twelve (12) years of age or older, after the time period prescribed in paragraph (d)(i) of this subsection (2) of this Section but not exceeding seven (7) days including Saturdays, Sundays, and holidays pending an adjudicatory hearing, county jails shall comply with all temporary detention standards promulgated by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(iii) To accept or hold minors twelve (12) years of age or older, after the time period prescribed in paragraphs (d)(i) and (d)(ii) of this subsection (2) of this Section, county jails shall comply with all programmatic and training standards for juvenile detention homes promulgated by the Department of Corrections.

(e) When a minor who is at least fifteen (15) years of age is prosecuted under the criminal laws of this State, the court may enter an order directing that the juvenile be confined in the county jail.

However, any juvenile confined in the county jail under this provision shall be separated from adults who are confined in the county jail in such a manner that there will be no contact by sight, sound, or otherwise between the juvenile and adult prisoners.

(f) For purposes of appearing in a physical lineup, the minor may be taken to a county jail or municipal lockup under the direct and constant supervision of a juvenile police officer. During such time as is necessary to conduct a lineup, and while supervised by a juvenile police officer, the sight and sound separation provisions shall not apply.

(g) For purposes of processing a minor, the minor may be taken to a county jail or municipal lockup under the direct and constant supervision of a law enforcement officer or correctional officer. During such time as is necessary to process the minor, and while supervised by a law enforcement officer or correctional officer, the sight and sound separation provisions shall not apply.

(3) If the probation officer or State's Attorney (or such other public officer designated by the court in a county having 3,000,000 or more inhabitants) determines that the minor may be a delinquent minor as described in subsection (3) of Section 5-105 [705 ILCS 405/5-105], and should be retained in custody but does not require physical restriction, the minor may be placed in nonsecure custody for up to 40 hours pending a detention hearing.

(4) Any minor taken into temporary custody, not requiring secure detention, may, however, be detained in the home of his or her parent or guardian subject to such conditions as the court may impose.

Indiana

Burns Ind. Code Ann. § 31-37-19-7 (1998)
Wardship awarded to department of correction, place of confinement

(c) The department of correction may not confine a delinquent child, except as provided in IC 11-10-2-10, at:

(1) an adult correctional facility; or

(2) a shelter care facility;

that houses persons charged with, imprisoned for, or incarcerated for crimes unless the child is restricted to an area of the facility where the child may have not more than haphazard or incidental sight or sound contact with persons charged with, imprisoned for, or incarcerated for crimes.

Burns Ind. Code Ann. § 11-10-2-10 (1998)
Transfer to adult facility or program

(a) The commissioner may transfer a committed delinquent offender to an adult facility or program according to the following requirements:

(1) The offender must be seventeen (17) years of age or older at the time of transfer.

(2) The department must determine that:

(A) either the offender is incorrigible to the degree that his presence at a facility or program for delinquent offenders is seriously detrimental to the welfare of other offenders, or the transfer is necessary for the offender's own physical safety or the physical safety of others; and

(B) there is no other action reasonably available to alleviate the problem.

(3) No offender may be transferred to the Indiana state prison or the Pendleton Correctional Facility.

(b) The offender is under the full custody of the adult facility or program to which he is transferred until he is returned to a facility or program for delinquent offenders, except that his parole or discharge from the department shall be determined under IC 11-13-6.

Iowa

Code § 232.22 (1997)
Placement in detention

2. Except as provided in subsection 6, a child may be placed in detention as provided in this section in one of the following facilities only:

a. A juvenile detention home.

b. Any other suitable place designated by the court other than a facility under paragraph "c."

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

(1) The child is at least fourteen (14) years of age.

(2) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger to

another or to the property of another, and a facility or place enumerated in paragraph "a" or "b" is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility.

(3) The facility has an adequate staff to supervise and monitor the child's activities at all times.

(4) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

4. A child shall not be detained in a facility under subsection 2, paragraph "c" for a period of time in excess of six (6) hours without the oral or written order of a judge or a magistrate authorizing the detention. A judge or magistrate may authorize detention in a facility under subsection 2, paragraph "c" for a period of time in excess of six (6) hours but less than twenty-four (24) hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

a. The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States Census Bureau.

b. The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.

c. The facility has been certified by the department of corrections as being capable of sight and sound separation.

d. The child is awaiting an initial hearing before the court.

6. If the court has waived its jurisdiction over the child for the alleged commission of a forcible felony offense pursuant to section 232.45 or 232.45A, and there is a serious risk that the child may commit an act which would inflict serious bodily harm on another person, the child may be held in the county jail. However, wherever possible the child shall be held in sight and sound separation from adult offenders. A child held in the county jail under this subsection shall have all the rights of adult postarrest or pretrial detainees.

Kansas

§ 11. K.S.A. 1997 Supp. 38–16,111 is hereby amended to read as follows:

(A) When a juvenile who is under sixteen (16) years of age at the time of the sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary of the department of corrections, the secretary shall notify the sheriff having such juvenile in custody to convey such offender at a time designated by the juvenile justice authority to a juvenile correctional facility. The commissioner shall notify the court in writing of the initial placement of the juvenile in the specific juvenile correctional facility as soon as the placement has been accomplished. The commissioner shall not permit the juvenile to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays, and legal holidays, after the commissioner has received the written order of the court placing the juvenile in the custody of the commissioner, except that, if that placement cannot be accomplished, the juvenile may remain in jail for an additional period of time, not exceeding 10 days, which is specified by the commissioner and approved by the court.

(B) A juvenile who has been prosecuted and convicted as an adult, shall not be eligible for admission to a juvenile correctional facility. All other conditions of such juvenile offender's sentence imposed under this code, including restitution orders, may remain intact. The provisions of this subsection shall not apply to a juvenile who:

(1) is under sixteen (16) years of age at the time of the sentencing;

(2) has been prosecuted as an adult or under extended juvenile jurisdiction; and

(3) has been placed in the custody of the secretary of corrections, requiring admission to a juvenile correctional facility pursuant to subsection (A).

Kentucky

KRS § 610.220 (1998)
Permitted purposes for holding child in custody, time limitation, extension

(1) If an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, the offices of the court-designated worker, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks;

(h) Determining whether the child is subject to trial as an adult; and

(i) Other inquiries of a preliminary nature.

(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5) (d) and the child may be retained in custody in facilities listed in subsection (1) of this section for the period of retention.

2. Separation From Adults

There was no legal authority for the detention of a 13-year-old child in any portion of a county jail that is not physically separated from sight and sound of all other portions of the jail. *Skeans* v. *Vanhoose,* 512 S.W.2d 520 (Ky. 1974).

Louisiana

Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

A. Prior to the divesting events specified in Paragraphs A through D of Article 305, the child shall be held in custody in a juvenile detention center, except as hereinafter provided.

B. If a detention facility for juveniles is not available, he may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete these activities for up to six (6) hours, except that in nonmetropolitan areas, he may be held for up to twenty-four (24) hours if all of the following occur:

(1) The child meets the age and offense criteria set out in Article 305.

(2) A continued custody hearing in accordance with Articles 820 and 821 is held within twenty-four (24) hours after his arrest.

(3) There is no acceptable alternative placement to the jail or lockup in which he is being held.

(4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist providing for sight and sound separation of the juvenile from adult offenders and that he can be given continuous visual supervision while placed in the jail or lockup.

C. If an indictment has not been returned, a bill of information filed, or a continued custody hearing not held within twenty-four (24) hours, the child held in an adult jail or lockup in a nonmetropolitan area shall be released or removed to a juvenile detention facility.

D. If at the conclusion of the continued custody hearing, the court determines that the child meets the age requirements and that there is probable cause that the child has committed one of the offenses enumerated in Article 305, the court shall order him held for trial as an adult for the appropriate court of criminal jurisdiction. The child shall thereafter be held in any facility used for the pretrial detention of accused adults and shall apply to the appropriate court of criminal jurisdiction for a preliminary hearing, bail, and for any other rights to which he may be entitled under the Code of Criminal Procedure.

E. If for any reason the court determines that the child is not subject to the jurisdiction of the criminal courts, it may continue him in custody only in those places authorized by Article 822.

F. The court authorizing the detention of the child in an adult jail or lockup pursuant to Paragraph B or D of this Article shall submit a written report delineating appropriate reasons for the continued custody to the judicial administrator of the supreme court for review and shall submit copies to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice and to the sheriff or chief of police of the facility in which the child is being detained within seven (7) working days of the court's decision.

La. Ch.C. Art. 305 (1998)
Divestiture of juvenile court jurisdiction, original criminal court jurisdiction over children, when acquired

A. (1) When a child is fifteen (15) years of age or older at the time of the commission of first degree murder, second degree murder, aggravated rape, or aggravated kidnaping, he is subject to the exclusive jurisdiction of the juvenile court until either:

(a) An indictment charging one of these offenses is returned.

(b) The juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that he committed one of these offenses, whichever occurs first.

(2) Thereafter, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the child shall be transferred forthwith to the appropriate adult facility for detention prior to his trial as an adult.

B. (1) When a child is fifteen (15) years of age or older at the time of the commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he is subject to the exclusive jurisdiction of the juvenile court until whichever of the following occurs first:

(a) An indictment charging one of the offenses listed in Subparagraph (2) of this Paragraph is returned.

(b) The juvenile court holds a continued custody hearing and finds probable cause that the child has committed any of the offenses listed in Subparagraph (2) of this Paragraph and a bill of information charging any of the offenses listed in Subparagraph (2) of this Paragraph is filed.

(2) (a) Attempted first degree murder.

(b) Attempted second degree murder.

(c) Manslaughter.

(d) Armed robbery.

(e) Aggravated burglary.

(f) Forcible rape.

(g) Simple rape.

(h) Second degree kidnaping.

(i) Aggravated oral sexual battery.

(j) Aggravated battery committed with a firearm.

(k) A second or subsequent aggravated battery.

(l) A second or subsequent aggravated burglary.

(m) A second or subsequent offense of burglary of an inhabited dwelling.

(n) A second or subsequent felony-grade violation of Part X or X–B of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

(3) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment or file a bill of information. If the child is being held in detention, the district attorney shall make his election and file the indictment, bill of information,

or petition in the appropriate court within thirty (30) calendar days after the child's arrest, unless the child waives this right.

(4) If an indictment is returned or a bill of information is filed, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the child shall be transferred forthwith to the appropriate adult facility for detention prior to his trial as an adult.

C. Except when a juvenile is held in an adult jail or lockup, the time limitations for the conduct of a continued custody hearing are those provided by Article 819.

D. The court exercising criminal jurisdiction shall retain jurisdiction over the child's case, even though he pleads guilty to or is convicted of a lesser included offense. A plea to or conviction of a lesser included offense shall not revest jurisdiction in the court exercising juvenile jurisdiction over such a child.

Maine

§ 3101 (1998)

E–1. If the Juvenile Court binds the juvenile over to Superior Court, the court may direct detention of any such juvenile who is to be detained in a section of a jail that is used primarily for the detention of adults when it finds by clear and convincing evidence that:

(1) The juvenile's behavior presents an imminent danger of harm to that juvenile or to others; and

(2) There is not a less restrictive alternative to detention in an adult section that serves the purposes of detention.

In determining whether the juvenile's behavior presents a danger to that juvenile or others, the Juvenile Court shall consider, among other factors:

(a) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated, or intentional manner;

(b) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and

(c) If applicable, the juvenile's behavior and mental condition during any previous and current period of detention or commitment.

Maryland

Md. Courts and Judicial Proceedings Code Ann. § 3–815 (1998)
Detention and shelter care prior to hearing

4 (g) Placement of child alleged to be delinquent. A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.

Legislative Intent. This section reveals that the General Assembly intended to require the separation of children from adults only with respect to jails, detention centers, and correctional institutions housing adults charged with or convicted of crimes.

Massachusetts

Mass. Ann. Laws ch. 119, § 67 (1999)
Notice of arrest of child to be given to probation officer and parent or guardian, release to probation officer

No child between fourteen (14) and seventeen (17) years of age shall be detained in a police station or town lockup unless the detention facilities for children at such police station or town lockup have received the approval in writing of the commissioner of youth services. The department of youth services shall make inspection at least annually of police stations or town lockups wherein children are detained. If no such approved detention facilities exist in any city or town, such city or town may contract with an adjacent city or town for the use of approved detention facilities in order to prevent children who are detained from coming in contact with adult prisoners. Nothing in this section shall permit a child between fourteen (14) and seventeen (17) years of age being detained in a jail or house of correction. A separate and distinct place shall be provided in police stations, town lockups, or places of detention for such children.

Michigan

Michigan MSA 28.334 (1998)
Child under sixteen (16) years of age, confinement, commitment or trial, presence at trial of adults, transportation with adults charged with or convicted of crime, exception, violation as misdemeanor

Sec. 139

(1) Except as provided in subsection (2), a child under sixteen (16) years of age while under arrest, confinement, or conviction for any crime, shall not be placed in any apartment or cell of any prison or place of confinement with any adult who is under arrest, confinement, or

conviction for any crime, or be permitted to remain in any courtroom during the trial of adults, or be transported in any vehicle of transportation in company with adults charged with or convicted of crime.

(2) Subsection (1) does not apply to prisoners being transported to or from, or confined in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(3) All cases involving the commitment or trial of children under sixteen (16) years of age for any crime or misdemeanor, before any court, shall be heard and determined by the court at a suitable time, to be designated by it, separate and apart from the trial of other criminal cases.

(4) Any person who violates this section is guilty of a misdemeanor.

MCR 5.956 (1998)

(B) Violation of probation in delayed imposition of sentence cases.

(1) Subsequent Conviction.

If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than one (1) year, or adjudicated as responsible for an offense that if committed by an adult would be a felony or a misdemeanor punishable by imprisonment for more than one (1) year, the court shall revoke probation and sentence the juvenile to imprisonment for a term that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation.

(2) Other violations of probation. If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation other than as provided in subrule (B)(1), the court may impose sentence or may order any of the following for the juvenile:

(a) a change in placement;

(b) community service;

(c) substance abuse counseling;

(d) mental health counseling;

(e) participation in a vocational-technical program;

(f) incarceration in the county jail for not more than thirty (30) days if the present county jail facility would meet all requirements under federal law and regulations for housing juveniles and if the court has consulted with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile. If the juvenile is under seventeen (17) years of age, the juvenile must be placed in a room or ward out of sight and sound from adult prisoners; other participation or performance as the court considers necessary.

MCR 6.909 (1998)
Releasing or detaining juveniles prior to trial or judgment of sentence

(B) (2) Jailing of Juveniles; Restricted. On motion of a prosecuting attorney or a superintendent of a juvenile facility where the juvenile is detained, the magistrate or court may order the juvenile confined in a jail or similar facility designed and used to incarcerate adult prisoners upon a showing that

(a) the juvenile's habits or conduct are considered a menace to other juveniles; or

(b) the juvenile may not otherwise be safely detained in a juvenile facility.

(3) Juvenile-Court-Operated Facility. The juvenile shall not be placed in an institution operated by the juvenile court except with the consent of the juvenile court or on order of a court as defined in these rules.

(4) Separate Custody of Juvenile. The juvenile in custody or detention must be maintained separately from the adult prisoners or adult accused as required by MCL 764.27a; MSA 28.886(1).

MCR 6.933 (1998)
Rule 6.933 Juvenile probation revocation

(A) General Procedure. When a juvenile, who was placed on juvenile probation and committed to an institution as a state ward, is alleged to have violated juvenile probation, the court shall proceed as provided in MCR 6.445(A) through (F).

(B) Disposition.

(1) Certain Criminal Offense Violations. If the court finds that the juvenile has violated juvenile probation by being convicted of a felony or a misdemeanor punishable by more than one year's imprisonment, the court must revoke the probation of the juvenile and order the juvenile committed to the department of corrections for a term of years not to exceed the penalty that could have been imposed for the offense that led to the probation. The court in imposing sentence shall grant credit against the sentence as required by law.

(2) Other Violations. If the court finds that the juvenile has violated juvenile probation, other than as provided in subrule (B)(1), the juvenile must be continued on juvenile probation and remain under state wardship provided that the court may order:

(a) a change of placement,

(b) restitution,

(c) community service,

(d) substance abuse counseling,

(e) mental health counseling,

(f) participation in a vocational-technical education program,

(g) incarceration in a county jail for not more than thirty (30) days, and

(h) any other participation or performance as the court considers necessary.

If the court determines to place the juvenile in jail for up to thirty (30) days, and the juvenile is under seventeen (17) years of age, the juvenile must be placed separately from adult prisoners as required by law.

(3) If the court revokes juvenile probation pursuant to subrule (B)(1), the court must receive an updated presentence report and comply with MCR 6.445(G) before it imposes a prison sentence on the juvenile.

(C) Review. The juvenile may appeal as of right from the imposition of a sentence of incarceration after a finding of juvenile probation violation.

MCR 6.937 (1998)

It is clear from the new Public Acts that the Legislature intended that a juvenile under seventeen (17), who is criminally prosecuted without a waiver hearing under § 4 of the Juvenile Code, may not be detained in a jail with adult prisoners pending trial, acquittal or conviction, or decision at a juvenile disposition hearing. The Legislature intended that the juvenile who is criminally charged with one or more enumerated life offense without being waived over must be housed in a juvenile facility. The exceptions are if the juvenile is considered to be a menace to other juveniles because of habit or conduct, or may not otherwise be safely detained. In such cases the juvenile may be housed in a jail or similar institution designed to incarcerate adult prisoners, if placed in a room or ward out of sight and sound from the other adults. Note further that the juvenile, from the point of apprehension, must be kept separate from adult prisoners. The Juvenile Court Rules Committee, when it formulated suggested proposals based on the new legislation, debated the question whether the district court was authorized to place a juvenile in a facility pending trial. The committee found no specific express provision because there is none. The statutory waiver package, read as a whole, establishes that the Legislature believed that the source of authority to detain a juvenile in a juvenile facility pending trial is § 27a of Chapter IV (arrests) in the Code of Criminal Procedure:

> "(1)If a juvenile is taken into custody or detained, the juvenile shall not be confined in a police station, prison, jail, lockup, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal persons while awaiting trial. However, a juvenile whose habits or conduct are considered to be a menace to other children, or who may not otherwise be safely detained, may be ordered by a court to be placed in a jail or other place of detention for adults, but in a room or ward out of sight and sound from adults.
>
> "(2) If a person is convicted of a crime within this state and has served time in a juvenile facility prior to sentencing because of being denied or being unable to furnish bond for the offense of which he or she is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for time served in a juvenile facility prior to sentencing." MCL 764.27a; MSA 28.886(1), as added by 1988 PA 67. It would have been preferable for the Legislature to have expressly stated that the juvenile may be detained in a juvenile facility with court sanction pending trial or disposition. Nevertheless, when a juvenile is apprehended and the prosecutor has authorized the filing of a criminal complaint and warrant, it is believed that the juvenile may be placed in a juvenile facility unless and until the court, including a district court, either orders the juvenile released with or without bail at arraignment, or other hearing, orders the juvenile committed to jail, because the juvenile is a menace to other children or may not otherwise be safely detained, or continues the detention in the juvenile facility. Commitment pending trial, if at all, was clearly intended by the Legislature to be in a juvenile facility. Unlike the juvenile system, which is civil in nature and which requires specific statutory authority in order to hold a juvenile pending adjudication, the accused in the adult criminal system is detained on a charge until arraigned and ordered released, even if arrested without a warrant. The written authority to detain if needed is provided by the complaint and warrant. Section 27a represents a further limitation on government than just the Fourth Amendment and the like when it comes to juveniles who are to be criminally prosecuted as though adults. But a limitation implies authority that needs limits. The first sentence of § 27a(1) assumes not only that the juvenile has been taken into custody. It also assumes that the juvenile may be subject to detention. This is followed by the limitation that the juvenile not be put with adult prisoners while awaiting trial. The second sentence of § 27a(1), making provision for the juvenile who may be a menace to

other children, assumes that the juvenile will probably be in a facility with children—a juvenile facility. It should be remembered that jail has been defined by the Legislature in the Code of Criminal Procedure to include a juvenile facility for purposes of placement under § 27a. This indicates there is an absolute prohibition against placing a juvenile with adult prisoners in any facility whatsoever. The second sentence of § 27a also indicates that a court may put a juvenile in jail who may not otherwise be safely detained. "Juvenile facility" equates with jail for purposes of placement under § 27a. This may mean that the court that had earlier conditioned release of the juvenile on in-home detention, foster care and the like, and later finds that the juvenile cannot otherwise be safely detained in such lesser restrictive environment, or is a menace to others, may place that juvenile in secure detention in a juvenile facility or, if necessary, in a jail used to incarcerate adults so long as the juvenile is out of sight and sound from adults.

Minnesota

§ 260.173

(4) Child detention alternatives. If the child is taken into custody as one who:

(c) is reasonably believed to have violated the terms of probation, parole, or other field supervision under which the child has been placed, the child may be detained in a shelter care or secure juvenile detention facility. If the child cannot be detained in another type of detention facility, and if there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, a child described in this subdivision may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or up to six (6) hours in a standard metropolitan statistical area, in a jail, lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. If continued detention in an adult jail is approved by the court under section 260.172, subdivision 2, and there is no juvenile secure detention facility available for use by the county having jurisdiction over the child, such child may be detained for no more than eight (8) days from and including the date of the original detention order in separate quarters in any jail or other adult facility for the confinement of persons charged with or convicted of crime which has been approved by the commissioner of corrections to be suitable for the detention of juveniles for up to eight (8) days.

Mississippi

§ 43–21–159 (1998)

Pursuant to Section 43–21–159, the court with original jurisdiction over the juvenile charged with a DUI should hold the juvenile in the adult jail. However, the juvenile should not be placed in a cell with other adult inmates.

Missouri

Missouri (1999)
Places of detention—photograph and fingerprinting, restrictions

2. A child shall not be detained in a jail or other adult detention facility pending disposition of a case.

Montana

§ 41–5–206 (1999)

(6)A youth under sixteen (16) years of age may not be confined in a state prison facility.

(7) A youth whose case is filed in the district court may not be detained or otherwise placed in a jail or other adult detention facility before final disposition of the youth's case unless: alternative facilities do not provide adequate security; and the youth is kept in an area that provides physical separation as well as sight and sound separation from adults accused or convicted of criminal offenses.

Nebraska

§ 43–250
Temporary custody, disposition, custody requirements

(3) The officer shall take a juvenile without unnecessary delay before the juvenile court or probation officer of the county in which such juvenile was taken into custody and deliver the custody of such juvenile to the juvenile court or probation officer. When secure custody of a juvenile is necessary, such custody shall occur within a juvenile detention facility except:

> (a) When a juvenile described in subdivision (1) or (2) of section 43–247, except for a status offender, is taken into temporary custody within a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed six (6) hours, to a secure area of a jail or

other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(b) When a juvenile described in subdivision (1) or (2) of section 43–247, except for a status offender, is taken into temporary custody outside of a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed twenty-four (24) hours excluding nonjudicial days and while awaiting an initial court appearance, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(c) Whenever a juvenile is held in a secure area of any jail or other facility intended or used for the detention of adults, there shall be no verbal, visual, or physical contact between the juvenile and any incarcerated adult and there shall be adequate staff to supervise and monitor the juvenile's activities at all times. This subdivision shall not apply to a juvenile charged with a felony as an adult in county or district court if he or she is sixteen (16) years of age or older;

(d) If a juvenile is under sixteen (16) years of age or is a juvenile as described in subdivision (3) of section 43–247, he or she shall not be placed within a secure area of a jail or other facility intended or used for the detention of adults;

(e) If, within the time limits specified in subdivision (3)(a) or (3)(b) of this section, a felony charge is filed against the juvenile as an adult in county or district court, he or she may be securely held in a jail or other facility intended or used for the detention of adults beyond the specified time limits;

(f) A status offender or nonoffender taken into temporary custody shall not be held in a secure area of a jail or other facility intended or used for the detention of adults. A status offender accused of violating a valid court order may be securely detained in a juvenile detention facility longer than twenty-four (24) hours if he or she is afforded a detention hearing before a court within twenty-four (24) hours, excluding nonjudicial days, and if, prior to a dispositional commitment to secure placement, a public agency, other than a court or law enforcement agency, is afforded an opportunity to review the juvenile's behavior and possible alternatives to secure placement and has submitted a written report to the court; and

(g) A juvenile described in subdivision (1) or (2) of section 43–247, except for a status offender, may be held in a secure area of a jail or other facility intended or used for the detention of adults for up to six (6) hours before and six (6) hours after any court appearance;

§ 43–253 Temporary custody, investigation, release

(2) No juvenile who has been taken into temporary custody under subdivision (3) of section 43–250 shall be detained in any locked facility for longer than twenty-four (24) hours, excluding nonjudicial days, after having been taken into custody unless such juvenile has appeared personally before a court of competent jurisdiction for a hearing to determine if continued detention is necessary. If continued detention in a locked facility is ordered, such detention shall be in a juvenile detention facility, except that a juvenile charged with a felony as an adult in county or district court may be held in an adult jail as set forth in subdivision (3)(e) of section 43–250.

Nevada

Nev. Rev. Stat. Ann. § 62.170 (1998)
Taking custody of child, release to parent or other person, detention of children, procedure

4. A child not alleged to be delinquent or in need of supervision must not at any time be confined or detained in a facility for the secure detention of juveniles or any police station, lockup, jail, prison, or other facility in which adults are detained or confined.

5. A child under eighteen (18) years of age must not at any time be confined or detained in any police station, lockup, jail, prison, or other facility where the child has regular contact with any adult convicted of a crime or under arrest and charged with a crime, unless:

(a) The child is alleged to be delinquent;

(b) An alternative facility is not available; and

(c) The child is separated by sight and sound from any adults who are confined or detained therein.

6. A child alleged to be delinquent who is taken into custody and detained must be given a detention hearing, conducted by the judge or master:

(a) Within twenty-four (24) hours after the child submits a written application;

(b) In a county whose population is less than 100,000, within twenty-four (24) hours after the commencement of detention at a police station, lockup, jail, prison, or other facility in which adults are detained or confined;

(c) In a county whose population is 100,000 or more, within six (6) hours after the commencement of detention at a police station, lockup, jail, prison, or other facility in which adults are detained or confined; or

(d) Within seventy-two (72) hours after the commencement of detention at a facility in which adults are not detained or confined, whichever occurs first, excluding Saturdays, Sundays, and holidays. A child must not be released after a detention hearing without the written consent of the judge or master.

New York

New York CLS CPL 510.15 (1998)

Commitment of principal under sixteen (16). When a principal who is under the age of sixteen (16) is committed to the custody of the sheriff the court must direct that the principal be taken to and lodged in a place certified by the state division for youth as a juvenile detention facility for the reception of children. Where such a direction is made the sheriff shall deliver the principal in accordance therewith and such person shall although lodged and cared for in a juvenile detention facility continue to be deemed to be in the custody of the sheriff. No principal under the age of sixteen (16) to whom the provisions of this section may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with the commission of a crime without the approval of the state division for youth in the case of each principal and the statement of its reasons therefor.

NY CLS Family Ct Act § 304.1 (1999)
Detention

1. A facility certified by the state division for youth as a juvenile facility must be operated in conformity with the regulations of the state division for youth and shall be subject to the visitation and inspection of the state board of social welfare.

2. No child to whom the provisions of this article may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of crime or under arrest and charged with crime without the approval of the state division for youth in the case of each child and the statement of its reasons therefor.

3. The detention of a child under ten (10) years of age in a secure detention facility shall not be directed under any of the provisions of this article.

North Carolina

N.C. Gen. Stat. § 7B–2809 (1999)
Detention practices

To every extent possible, it shall be the policy of states party to this Compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup, nor be detained or transported in association with criminal, vicious, or dissolute persons.

§ 153A–221.1 Effective July 1, 1999
Standards and inspections

The Secretary of Health and Human Services shall also develop standards under which a local jail may be approved as a holdover facility for not more than five (5) calendar days pending placement in a juvenile detention home which meets state standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child.

North Dakota

Cent. Code, § 27–20–16 (1999)
Place of detention

1. A child alleged to be delinquent or unruly may be detained only in:

   a. A licensed foster home or a home approved by the court;

   b. A facility operated by a licensed child welfare agency;

   c. A detention home or center for delinquent or unruly children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court;

   d. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court; or

   e. A jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor, intake officer, or other authorized officer of the court, that public safety and protection reasonably require detention, and it is so authorized.

2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be a child is received at the facility and shall bring the person before the court upon request or deliver the person to a detention or shelter care facility designated by the court.

3. If a case is transferred to another court for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

4. A child alleged to be deprived may be placed in shelter care only in the facilities stated in subdivisions a, b, and d of subsection 1 and may not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent or unruly.

5. Effective January 1, 1988, a child alleged to be unruly may be detained only in the facilities listed in subdivisions a, b, c, and d of subsection 1.

Ohio

§ 2151.31 (1997)

B(2) Except as provided in division (C) of section 2151.311 of the Revised Code, a child taken into custody shall not be held in any state correctional institution, county, multicounty, or municipal jail or workhouse, or any other place where any adult convicted of crime, under arrest, or charged with crime is held.

§ 2151.311

(C)(1) a person taking a child into custody may hold the child for processing purposes in a county, multicounty, or municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held for either of the following periods of time:

(a) For a period not to exceed six (6) hours, if all of the following apply:

(i) The child is alleged to be a delinquent child for the commission of an act that would be a felony if committed by an adult;

(ii) The child remains beyond the range of touch of all adult detainees;

(iii) The child is visually supervised by jail or workhouse personnel at all times during the detention;

(iv) The child is not handcuffed or otherwise physically secured to a stationary object during the detention.

(b) For a period not to exceed three (3) hours, if all of the following apply:

(i) The child is alleged to be a delinquent child for the commission of an act that would be a misdemeanor if committed by an adult or is alleged to be an unruly child or a juvenile traffic offender;

(ii) The child remains beyond the range of touch of all adult detainees;

(iii) The child is visually supervised by jail or workhouse personnel at all times during the detention;

(iv) The child is not handcuffed or otherwise physically secured to a stationary object during the detention.

(C)(2) If a child has been transferred to an adult court for prosecution for the alleged commission of a criminal offense, subsequent to the transfer, the child may be held as described in division (C) of section 2151.312 [2151.31.2] or division (B) of section 5120.16 of the Revised Code.

Oklahoma

§ 130.7 (1998)
Separation from adults

No child shall be confined in any police station, prison, jail, or lockup, nor be transferred or detained in any place where such child can come in contact or communication with any adult convicted of a crime, or under arrest and charged with a crime. Provided further that any male person sixteen (16) or seventeen (17) years of age who may be in the custody of any peace officer or detained or confined in any police station, jail, or lockup, shall not be permitted to come in contact with, and shall be kept separate from, any person eighteen (18) years of age or older convicted of a crime or under arrest and charged with a crime.

10 Okl. St. § 7304–1.1 (1998) § 7304–1.1
Conditions of detention of child, detention or confinement in adult facility

(A)(2) No child alleged or adjudicated to be deprived or in need of supervision or who is or appears to be a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, shall be confined in any jail, adult lockup, or adult detention facility. No child shall be transported or detained in association with criminal, vicious, or dissolute persons.

(E)(1) Except as otherwise provided in this section, no child shall be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and

b. the child is awaiting an initial court appearance, and

c. the child's initial court appearance is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and

d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and

e. there is no existing acceptable alternative placement for the child, and

f. the jail, adult lockup, or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

(1) total separation between juveniles and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities,

(2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities, and

(3) separate juvenile and adult staff, specifically direct care staff such as recreation, education, and counseling.

Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults can serve both.

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a juvenile training school or from a Department of Juvenile Justice group home from being held in any jail certified by the State Department of Health, police station, or similar law enforcement offices for up to six (6) hours for purposes of identification, processing or arranging for transfer to a secure detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

a. The time limitations for holding a child in a jail for the purposes of identification, processing, or arranging transfer established by this section shall not include the actual travel time required for transporting a child from a jail to a juvenile detention facility or alternative to secure detention.

b. Whenever the time limitations established by this subsection are exceeded, this circumstance shall not constitute a defense in a subsequent delinquency or criminal proceeding.

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an 18-year-old charged in a juvenile petition for whom certification to stand trial as an adult is prayed.

4. Nothing in this section shall preclude detaining in a county jail or other adult detention facility a person provided for in Section 7304–1.2 of this title if written or electronically transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 7304–1.2 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of 7304–1.3 of this title.

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained for the commission of a felony, in a jail certified by the State Department of Health, a police station, or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

a. there is a reasonable belief that the person is eighteen (18) years of age or older,

b. there is a reasonable belief that a felony has been committed by the person,

c. a court order for such detention is obtained from a judge of the district court within six (6) hours of initially detaining the person,

d. there is no juvenile detention facility that has space available for the person and that is within thirty (30) miles of the jail, police station, or law enforcement office in which the person is to be detained, and

e. during the time of detention the person is detained in a facility meeting the requirements of subparagraph f of paragraph 1 of this subsection.

The time limitation provided for in this paragraph shall include the time the person is detained prior to the issuance of the court order.

The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

F. Nothing contained in this section shall in any way reduce or eliminate a county's liability as otherwise provided by law for injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

10 Okl. St. § 7306–2.4 (1998)
Treatment of a child certified as an adult or youthful offender in criminal proceedings

D. Upon arrest and detention of a person subject to the provisions of Section 7306–2.5 or 7306–2.6 of this title, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, may be detained in a juvenile detention facility or in a county jail if separated from the adult population as otherwise authorized by law.

E. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 7306–2.8 of this title the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

Oregon

137.705 (1997)

(2) (a) Notwithstanding ORS 419B.100 and 419C.005, a person 15, 16, or 17 years of age at the time of committing the offense may be charged with the commission of an offense listed in ORS 137.707 and may be prosecuted as an adult.

(b) The district attorney shall notify the juvenile court and the juvenile department when a person under 18 years of age is charged with an offense listed in ORS 137.707.

(c) The filing of an accusatory instrument in a criminal court under ORS 137.707 divests the juvenile court of jurisdiction in the matter if juvenile court jurisdiction is based on the conduct alleged in the accusatory instrument or any conduct arising out of the same act or transaction. Upon receiving notice from the district attorney under paragraph (b) of this subsection, the juvenile court shall dismiss, without prejudice, the juvenile court proceeding and enter any order necessary to transfer the matter or transport the person to the criminal court for further proceedings. Nothing in this paragraph affects the authority or jurisdiction of the juvenile court with respect to other matters or conduct.

(3) (a) A person charged with a crime under ORS 137.707 who is sixteen (16) or seventeen (17) years of age shall be detained in custody in a jail or other place where adults are detained subject to release on the same terms and conditions as for adults.

(b) Notwithstanding paragraph (a) of this subsection, the sheriff and the director of the county juvenile department may agree to detain the person charged in a place other than the county jail.

(c) If a person charged with a crime under ORS 137.707 is under sixteen (16) years of age, the person may not be detained, either before conviction or after conviction but before execution of the sentence, in a jail or other place where adults are detained.

ORS § 419C.130 (1997)
Youth may not be detained where adults are detained, exceptions

(1) No youth shall be detained at any time in a police station, jail, prison, or other place where adults are detained, except as follows:

(a) A youth may be detained in a police station for up to five (5) hours when necessary to obtain the youth's name, age, residence, and other identifying information.

(b) A youth waived under ORS 419C.349 or 419C.364 to the court handling criminal actions or to municipal court may be detained in a jail or other place where adults are detained, except that any such person under sixteen (16) years of age shall, prior to conviction or after conviction but prior to execution of sentence, be detained, if at all, in a facility used by the county for the detention of youths.

(2) No youth waived to the court handling criminal actions or to municipal court pursuant to a standing order of the juvenile court under ORS 419C.370, including a youth accused of nonpayment of fines, shall be detained in a jail or other place where adults are detained.

Pennsylvania

42 Pa.C.S. § 6327 (1998)
Place of detention

(A) General Rule.

Under no circumstances shall a child be detained in any facility with adults, or where the child is apt to be abused by other children.

(B) Report by Correctional Officer of Receipt of Child. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of 18 years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.

(D) Transfer of Child Subject to Criminal Proceedings. If a case is transferred for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime. The court in making the transfer may order continued detention as a juvenile pending trial if the child is unable to provide bail.

(E) Detention of Dependent Child. A child alleged to be dependent may be detained or placed only in a Department of Public Welfare approved shelter care and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses, but may be detained in the same shelter care facilities with alleged delinquent children.

Rhode Island

R.I. Gen. Laws § 14–1–26 (1998)
Separation from adult offenders

In case a delinquent or wayward child is taken into custody or detained before or after the filing of a petition, or pending a hearing thereon, the child shall not be confined in any prison, jail, lockup, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal, vicious, or dissolute persons, but shall be kept under the care of the person arresting the child, or of a police matron as provided in § 14–1–24, until by order of the court other disposition is made of the child as provided in this chapter; and if the child is ordered to be detained, or confined in any of the institutions mentioned in this chapter, the child shall not be conveyed to or from the institution with adult offenders.

South Carolina

Code Ann. § 20–7–6845 (1998)

(4) The Budget and Control board will coordinate with all responsible and affected agencies and entities to ensure that adequate funding is identified to prevent the detention or incarceration of juveniles who are awaiting disposition by, or who are under the jurisdiction of, the family court in adult jails anywhere within the state of South Carolina and to prevent the detention of juveniles who are awaiting disposition by general sessions court in facilities which do not provide actual sight and sound separation from adults who are in detention or custody.

South Dakota

S.D. Codified Laws § 26–11–1(1999)
Proceedings on offense for which child not subject to delinquency proceedings, prosecution as adult, detention in adult jail or lockup

If any child under the age of eighteen (18) years is arrested, with or without a warrant, for violation of any law or municipal ordinance for which the child is not subject to proceedings as a delinquent child or for violation of § 34–46–2(2), the child shall be brought before the judge of a court having jurisdiction over the offense and proceedings shall be conducted as though the child were eighteen (18) years of age or older.

A child under the age of eighteen (18) years, subject to proceedings pursuant to this section and accused of a Class 2 misdemeanor, may be held in or sentenced to an adult lockup or jail or a detention or temporary care facility for up to seven (7) days if physically separated from adult prisoners.

A child under the age of eighteen (18) years, subject to proceedings pursuant to this section and accused of a Class 1 misdemeanor, may be held in or sentenced to an adult lockup or jail or a detention or temporary care facility for up to thirty (30) days if physically separated from adult prisoners.

Tennessee

Code Ann. § 37–1–116 (1999)
Place of detention, escape or attempted escape

(a) A child alleged to be delinquent or unruly may be detained only in:

(1) A licensed foster home or a home approved by the court;

(2) A facility operated by a licensed child welfare agency;

(3) A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or

(4) Subject to subsection (e), any other suitable place or facility designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if:

(A) Other facilities in subdivision (a)(3) are not available;

(B) The detention is in a room separate and removed from those for adults; and

(C) It appears to the satisfaction of the court that public safety and protection reasonably require detention, and it so orders.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under eighteen (18) years of age is received at the facility, and shall bring such person before the court upon request or deliver such person to a detention or shelter care facility designated by the court.

(c) If a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

(d) A child alleged to be dependent or neglected may be detained or placed in shelter care only in the facilities stated in subdivisions (a)(1), (2), and (4), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

(e) No child may be detained or otherwise placed in any jail or other facility for the detention of adults, except as provided in subsections (c) and (h).

(h) A juvenile may be temporarily detained for as short a time as feasible, not to exceed forty-eight (48) hours, in an adult jail or lockup, if:

(1) The juvenile is accused of a serious crime against persons, including criminal homicide, forcible rape, mayhem, kidnaping, aggravated assault, robbery, and extortion accompanied by threats of violence;

(2) The county has a low population density not to exceed thirty-five (35) persons per square mile;

(3) The facility and program have received prior certification by the Tennessee corrections institute as providing detention and treatment with total sight and sound separation from adult detainees and prisoners, including no access by trustees;

(4) There is no juvenile court or other public authority, or private agency able and willing to contract for the placement of the juvenile; and

(5) A determination is made that there is no existing acceptable alternative placement available for the juvenile.

Texas

Tex. Fam. Code § 51.12 (1999)
Place and conditions of detention

(f) A child detained in a building that contains a jail, lockup, or other place of secure confinement, including an alcohol or other drug treatment facility, shall be separated by sight and sound from adults detained in the same building. Children and adults are separated by sight and sound only if they are unable to see each other and conversation between them is not possible. The separation must extend to all areas of the facility, including sally ports and passageways, and those areas used for admission, counseling, sleeping, toileting, showering, dining, recreational, educational, or vocational activities, and health care. The separation may be accomplished through architectural design.

(g) Except for a child detained in a juvenile processing office, a place of nonsecure custody, or a secure detention facility as provided by Subsection (i), a child detained in a building that contains a jail or lockup may not have any contact with:

(1) part-time or full-time security staff, including management, who have contact with adults detained in the same building; or

(2) direct-care staff who have contact with adults detained in the same building.

Utah

Code Ann. § 62A–7–201 (1998)
Confinement, facilities, restrictions

(1) Children under eighteen (18) years of age, who are apprehended by any officer or brought before any court for examination under any provision of state law, may not be confined in jails, lockups, or cells used for ordinary criminals or persons charged with crime, or in secure postadjudication correctional facilities operated by the division, except as provided by specific statute and in conformance with approved standards.

(2) (a) Children charged by information or indictment with crimes as a serious youth offender under Section 78–3a–602 (serious offense charges) or certified to stand trial as an adult pursuant to Section 78–3a–603 (waiver statute) may be detained in a jail or other place of detention used for adults.

(b) Children detained in adult facilities under Section 78–3a–602 or 78–3a–603 prior to a hearing before a magistrate, or under Subsection 78–3a–114(3), may only be held in certified juvenile detention accommodations in accordance with rules promulgated by the division.

Those rules shall include standards for acceptable sight and sound separation from adult inmates. The division certifies facilities that are in compliance with the division's standards.

(3) In areas of low density population, the division may, by rule, approve juvenile holding accommodations within adult facilities that have acceptable sight and sound separation. Those facilities shall be used only for short-term holding purposes, with a maximum confinement of six (6) hours, for children alleged to have committed an act that would be a criminal offense if committed by an adult. Acceptable short-term holding purposes are: identification, notification of juvenile court officials, processing, and allowance of adequate time for evaluation of needs and circumstances regarding release or transfer to a shelter or detention facility.

Children who are alleged to have committed an act which would be a criminal offense if committed by an adult may be detained in holding rooms in local law enforcement agency facilities for a maximum of two (2) hours, for identification or interrogation, or while awaiting release to a parent or other responsible adult. Those rooms shall be certified by the division, according to the division's rules. Those rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

Code Ann. § 78–3a–114 (1998)
Placement of minor in detention or shelter facility, grounds, detention hearings, period of detention, notice, confinement of minors for criminal proceedings, bail laws inapplicable, exception

(8) (a) A minor under sixteen (16) years of age may not be held in a jail, lockup, or other place for adult detention except as provided by Section 62A–7–201 or unless certified as an adult pursuant to Section 78–3a–603. The provisions of Section 62A–7–201 regarding confinement facilities apply to this subsection.

(b) A minor sixteen (16) years of age or older whose conduct or condition endangers the safety or welfare of others in the detention facility for minors may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. However, a secure youth corrections facility is not an appropriate place of confinement for detention purposes under this section.

(9) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall immediately notify the juvenile court when a minor who is or appears to be under eighteen (18) years of age is received at the facility and shall make arrangements for the transfer of the minor to a detention facility, unless otherwise ordered by the juvenile court.

(10) This section does not apply to a minor who is brought to the adult facility under Section 78–3a–602 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78–3a–603.

(11) A minor held for criminal proceedings under Section 78–3a–602 or 78–3a–603 may be detained in a jail or other place of detention used for adults charged with crime.

Vermont

V.S.A. § 5514 (1999)
Detention, temporary care pending hearing

(c) A child shall not be detained under this section in a jail or other facility intended or used for the detention of adults, unless the child is alleged to have committed a crime punishable by death or life imprisonment, and it appears to the satisfaction of the court that public safety and protection reasonably require such detention.

(d) The official in charge of a jail or other facility intended or used for the detention of adult offenders or persons charged with crime shall inform the court immediately when a minor, who is or appears to be under the age of eighteen (18) years, is received at the facility other than pursuant to subsection (c) of this section or section 5530 of this title, and shall deliver the minor to the court upon request of the court, or transfer the minor to the detention facility designated by the court by order.

Virginia

Code Ann. § 16.1–249 (1998)
Places of confinement for juveniles

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1–248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;

2. A facility operated by a licensed child welfare agency;

3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;

4. Any other suitable place designated by the court and approved by the Department;

5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established

by any county, city, or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile Justice for the holding and detention of juveniles.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F, or G of this section.

C. Except for placement under subdivision A 5, the official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of eighteen (18) years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of subsection A of § 16.1–269.1 and an order is entered by the circuit court in accordance with § 16.1–269.6, or in accordance with the provisions of § 16.1–270 where the juvenile has waived the jurisdiction of the district court, or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1–269.1, the juvenile, if in confinement, may be transferred to a jail or other facility for the detention of adults and need no longer be entirely separate and removed from adults.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the child is fourteen years of age or older, a jail or other facility for the detention of adults; provided, that (i) the detention is in a room or ward entirely separate and removed from adults, (ii), adequate supervision is provided, and (iii) the facility is approved by the State Board of Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is fourteen (14) years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses (i), (ii), and (iii) of subsection E for a period not to exceed six (6) hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If a juvenile fourteen (14) years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period not to exceed six (6) hours prior to a court hearing and six (6) hours after the court hearing in a temporary lockup room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1–269.1 et seq.) of this chapter, (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to prescribe minimum standards for temporary lockup rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1–248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six (6) hours provided the juvenile is entirely separate and removed from detained adults or (ii) in a nonsecure area provided constant supervision is provided.

Washington

Rev. Code Wash. (ARCW) § 13.04.116 (1999)
Juvenile not to be confined in jail or holding facility for adults, exceptions, enforcement

(1) A juvenile shall not be confined in a jail or holding facility for adults, except:

> (a) For a period not exceeding twenty-four (24) hours excluding weekends and holidays and only for the purpose of an initial court appearance in a county where no juvenile detention facility is available, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates; or
>
> (b) For not more than six (6) hours and pursuant to a lawful detention in the course of an investigation, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates.

(2) For purposes of this section a juvenile is an individual under the chronological age of eighteen (18) years who has not been transferred previously to adult courts.

(3) The department of social and health services shall monitor and enforce compliance with this section.

(4) This section shall not be construed to expand or limit the authority to lawfully detain juveniles.

West Virginia

Code § 49-5-16 (1999)
Prohibition on committing juveniles to adult facilities

(a) No juvenile, including one who has been transferred to criminal jurisdiction of the court, shall be detained or confined in any institution in which he or she has contact with or comes within sight or sound of any adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges or with the security staff (including management) or direct-care staff of a jail or locked facility for adults.

(b) No child who has been convicted of an offense under the adult jurisdiction of the circuit court shall be held in custody in a penitentiary of this state: Provided, that such child may be transferred from a secure juvenile facility to a penitentiary after he shall attain the age of eighteen (18) years if, in the judgment of the court which committed such child, such transfer is appropriate: Provided, however, that any other provision of this code to the contrary notwithstanding, prior to such transfer the child shall be returned to the sentencing court for the purpose of reconsideration and modification of the imposed sentence, which shall be based upon a review of all records and relevant information relating to the child's rehabilitation since his conviction under the adult jurisdiction of the court.

W. Va. Code § 49-5A-2 (1999)
Investigation and release of child taken into custody, detention hearings

A child who has been arrested or who under color of law is taken into the custody of any officer or employee of the state or any political subdivision thereof shall be forthwith afforded a hearing to ascertain if such child shall be further detained. In connection with any such hearing, the provisions of article five [§ 49-5-1 et seq.] of this chapter shall apply. It shall be the duty of the judge or referee to avoid incarceration of such child in any jail. Unless the circumstances of the case otherwise require, taking into account the welfare of the child as well as the interest of society, such child shall be released forthwith into the custody of his parent or parents, relative, custodian, or other responsible adult or agency.

Wisconsin

Wis. Stat. § 938.209 (1998)
Criteria for holding a juvenile in a county jail or a municipal lockup facility

(1) Subject to s. 938.208, a county jail may be used as a secure detention facility if the criteria under either par. (a) or (b) are met:

(a) There is no other secure detention facility approved by the department or a county which is available and all of the following conditions are met:

1. The jail meets the standards for secure detention facilities established by the department.

2. The juvenile is held in a room separated and removed from incarcerated adults.

3. The juvenile is not held in a cell designed for the administrative or disciplinary segregation of adults.

4. Adequate supervision is provided.

5. The judge reviews the status of the juvenile every three (3) days.

(b) The juvenile presents a substantial risk of physical harm to other persons in the secure detention facility, as evidenced by previous acts or attempts, which can only be avoided by transfer to the jail. The conditions of par. (a) 1. to 5. shall be met. The juvenile shall be given a hearing and transferred only upon order of the judge.

(2m) (a) A juvenile who is alleged to have committed a delinquent act may be held in a municipal lockup facility if all of the following criteria are met:

1. The department has approved the municipal lockup facility as a suitable place for holding juveniles in custody.

2. The juvenile is held in the municipal lockup facility for not more than six (6) hours while awaiting his or her hearing under s. 938.21 (1) (a).

3. There is sight and sound separation between the juvenile and any adult who is being held in the municipal lockup facility.

4. The juvenile is held for investigative purposes only.

(b) The department shall promulgate rules establishing minimum requirements for the approval of a municipal lockup facility as a suitable place for holding juveniles in custody and for the operation of such a facility. The rules shall be designed to protect the health, safety, and welfare of the juveniles held in those facilities.

(3) The restrictions of this section do not apply to the use of jail for a juvenile who has been waived to adult court under s. 938.18 or who is under the jurisdiction of an adult court under s. 938.183, unless the juvenile is under the jurisdiction of an adult court under s. 938.183 (1) and is under fifteen (15) years of age.

Wis. Stat. § 938.22 (1998)
Establishment of secure detention facilities and shelter care facilities

(b) If the department approves, a secure detention facility or a holdover room may be a part of a public building in which there is a jail or other facility for the detention of adults if the secure detention facility or holdover room is so physically segregated from the jail or other facility that the secure detention facility or holdover room may be entered without passing through areas where adults are confined and that juveniles detained in the secure detention facility or holdover room cannot communicate with or view adults confined therein.

(e) A shelter care facility shall be used for the temporary care of juveniles. A shelter care facility, other than a holdover room, may not be in the same building as a facility for the detention of adults.

Wyoming

§ 5-6-112
Detention of juvenile offenders

(a) Effective July 1, 1995, no minor charged with violating a municipal ordinance defined as a status offense under subsection (b) of this section shall be detained in a jail.

(b) As used in W.S. 5-6-112 and 5-6-113:

(i) "Juvenile detention facility" means any facility which may legally and physically restrict and house a child, other than the Wyoming boys' school, the Wyoming girls' school, the Wyoming state hospital, or other private or public psychiatric facility within the state of Wyoming. A juvenile detention facility may be housed within an adult jail or correction facility if the facility otherwise meets the requirements of state law;

(ii) "Minor" means an individual who is under the age of eighteen (18) years;

(iii)"Status offense" means an offense which, if committed by an adult, would not constitute an act punishable as a criminal offense by the laws of this state or a violation of a municipal ordinance, but does not include a violation of W.S. 12-6-101(b) or (c) or any similar municipal ordinance.

Wyo. Stat. § 5–6–113 (1999)
Incarceration of juvenile offenders

(a) Effective July 1, 1995, no minor convicted of a status offense shall be sentenced to a term of imprisonment.

(b) A minor convicted of a misdemeanor or of violating a municipal ordinance, other than a status offense, for which a term of imprisonment is authorized, shall only be imprisoned in a juvenile detention facility.

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Sources for Further Information

For more information about juveniles in adult prisons, contact:

The Institute on Crime, Justice and Corrections
The George Washington University
1819 H Street NW.
Suite 700
Washington, DC 20006
202–469–6320
Fax: 202–496–6342

For more information on Bureau of Justice Assistance programs, contact:

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Clearinghouse staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time. Ask to be placed on the BJA mailing list.

U.S. Department of Justice Response Center
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Response Center staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time.

Bureau of Justice Assistance Information

General Information

Callers may contact the U.S. Department of Justice Response Center for general information or specific needs, such as assistance in submitting grants applications and information on training. To contact the Response Center, call 1–800–421–6770 or write to 1100 Vermont Avenue NW., Washington, DC 20005.

Indepth Information

For more indepth information about BJA, its programs, and its funding opportunities, requesters can call the BJA Clearinghouse. The BJA Clearinghouse, a component of the National Criminal Justice Reference Service (NCJRS), shares BJA program information with state and local agencies and community groups across the country. Information specialists are available to provide reference and referral services, publication distribution, participation and support for conferences, and other networking and outreach activities. The Clearinghouse can be reached by:

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